

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

CHAPTER 1

ORGANIZATION AND ADMINISTRATION

- 1.1(543D) Description
- 1.2(543D) Administrative committees
- 1.3(543D) Annual meeting
- 1.4(543D) Other meetings
- 1.5(543D) Executive officer's duties
- 1.6(543D) Records, filings, and requests for public information
- 1.7(543D) Adoption, amendment or repeal of administrative rules
- 1.8(22) Public records and fair information practices
- 1.9(68B) Sales of goods and services
- 1.10(17A) Petitions for rule making
- 1.11(17A) Declaratory orders
- 1.12(252J,261) Denial of issuance or renewal of license for nonpayment of child support or student loan
- 1.13(17A) Waivers and variances
- 1.14(543D,17A,272C) Investigations and investigatory subpoenas
- 1.15(543D,17A,272C) Contested case procedures
- 1.16(272C) Impaired licensees

CHAPTER 2

DEFINITIONS

- 2.1(543D) Applicability

CHAPTER 3

EXAMINATION

- 3.1(543D) Types of appraiser certificates
- 3.2(543D) Examinations
- 3.3(543D) Conduct of applicant
- 3.4(543D) Application for certification
- 3.5(543D) Work product review

CHAPTER 4

ASSOCIATE REAL PROPERTY APPRAISER

- 4.1(543D) Qualifications to register as an associate appraiser
- 4.2(543D) Supervision of associate appraisers
- 4.3(543D) Renewal of associate appraiser registration
- 4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser
- 4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser

CHAPTER 5

CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

- 5.1(543D) Examination
- 5.2(543D) Experience required for initial certification
- 5.3(543D) Upgrade from a certified residential to a certified general appraiser
- 5.4(543D) Supervised experience required for initial certification

CHAPTER 6

CERTIFIED GENERAL REAL PROPERTY APPRAISER

- 6.1(543D) Examination
- 6.2(543D) Experience requirement for certified general real property appraiser
- 6.3(543D) Evidence of applicant's experience
- 6.4(543D) Supervised experience required for initial certification

CHAPTER 7

DISCIPLINARY ACTIONS AGAINST CERTIFIED AND ASSOCIATE APPRAISERS

- 7.1(17A,272C,543D) Disciplinary authority
- 7.2(543D) Standards of practice
- 7.3(17A,272C,543D) Grounds for discipline

CHAPTER 8

INVESTIGATIONS AND DISCIPLINARY PROCEDURES

- 8.1(272C,543D) Disciplinary action
- 8.2(17A,272C,543D) Initiation of disciplinary investigations
- 8.3(272C,543D) Sources of information
- 8.4(17A,272C,543D) Conflict of interest
- 8.5(272C,543D) Complaints
- 8.6(272C,543D) Case numbers
- 8.7(272C,543D) Confidentiality of complaint and investigative information
- 8.8(17A,272C,543D) Investigation procedures
- 8.9(17A,272C,543D) Informal discussion
- 8.10(272C,543D) Peer review committee (PRC)
- 8.11(17A,272C,543D) Closing complaint files
- 8.12(17A,272C,543D) Initiation of disciplinary proceedings
- 8.13(17A,272C,543D) Disciplinary contested case procedures
- 8.14(543D) Decisions
- 8.15(543D) Civil penalties
- 8.16(272C,543D) Voluntary surrender
- 8.17(272C,543D) Reinstatement

CHAPTER 9

RENEWAL, EXPIRATION AND REINSTATEMENT OF CERTIFICATES AND REGISTRATIONS, AND INACTIVE STATUS

- 9.1(272C,543D) Biennial renewal
- 9.2(272C,543D) Notices
- 9.3(272C,543D) Renewal procedures
- 9.4(272C,543D) Failure to renew
- 9.5(272C,543D) Inactive status
- 9.6(272C,543D) Property of the board

CHAPTER 10

RECIPROCITY

- 10.1(543D) Nonresident certification by reciprocity
- 10.2(543D) Nonresident temporary practice

CHAPTER 11

CONTINUING EDUCATION

- 11.1(272C,543D) Definitions
- 11.2(272C,543D) Continuing education requirements

- 11.3(272C,543D) Hardship and disability provisions
- 11.4(272C,543D) Minimum program qualifications
- 11.5(272C,543D) Standards for provider and program approval
- 11.6(272C,543D) Acceptable distance education courses
- 11.7(272C,543D) Applications for approval of providers and programs
- 11.8(272C,543D) Waiver of application fees
- 11.9(272C,543D) Continuing education committee
- 11.10(272C,543D) Appraiser request for preapproval of continuing education programs
- 11.11(272C,543D) Appraiser request for postapproval of continuing education program
- 11.12(272C,543D) Review of provider or program
- 11.13(272C,543D) Hearings

CHAPTER 12

FEES

- 12.1(543D) Required fees
- 12.2(543D) Prorating of registration fees
- 12.3(543D) Federal registry fee

CHAPTER 13

CERTIFIED RESIDENTIAL APPRAISER EDUCATION REQUIREMENTS

- 13.1(543D) Existing credential holders
- 13.2(543D) Education requirements for certified residential licensing

CHAPTER 14

CERTIFIED GENERAL APPRAISER EDUCATION REQUIREMENTS

- 14.1(543D) Existing credential holders
- 14.2(543D) Education requirements for certified general licensing

CHAPTER 15

SUPERVISOR RESPONSIBILITIES

- 15.1(543D) Description
- 15.2(543D) Supervisory appraiser responsibilities
- 15.3(543D) Requirements for a supervisory appraiser
- 15.4(543D) Restrictions

CHAPTER 16

ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

- 16.1(543D) Civil penalties against nonlicensees
- 16.2(543D) Grounds for imposing civil penalties
- 16.3(543D) Investigations
- 16.4(543D) Notice of intent to impose civil penalties
- 16.5(543D) Request for hearing
- 16.6(543D) Factors to consider
- 16.7(543D) Enforcement options

CHAPTER 1
ORGANIZATION AND ADMINISTRATION

[Prior to 2/20/02, see 193F—Chapters 2, 9 and 11]

193F—1.1(543D) Description.

1.1(1) The purpose of the real estate appraiser examining board is to administer and enforce the provisions of Iowa Code chapter 543D (Iowa Voluntary Appraisal Standards and Appraiser Certification Law of 1989) with regard to the appraisal of real property in the state of Iowa, including the examination of candidates and issuance of certificates and registrations; investigation of alleged violations and infractions of the appraisal standards and appraiser certification law; and the disciplining of appraisers. The importance of the role of the appraiser places ethical and professional standards on those who serve in this capacity. To this end, the board has promulgated these rules and has adopted the Uniform Standards of Professional Appraisal Practice (USPAP) to clarify the board's intent and procedures and to promote and maintain a high level of public trust in professional appraisal practice.

1.1(2) All official communications, including submissions and requests, should be addressed to the board at its official address, 1920 SE Hulsizer Road, Ankeny, Iowa 50021.

193F—1.2(543D) Administrative committees.

1.2(1) The board may appoint administrative committees of not less than three nor more than five board members for the purpose of making recommendations on matters specified by the board.

1.2(2) An administrative committee may be appointed to make recommendations to the board concerning the board's responsibilities as to examinations, certifications, continuing education, professional conduct, discipline and other board matters.

193F—1.3(543D) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson shall be elected to serve until their successors are elected. The election of these officers shall be the first order of business after hearing the reports of outgoing officers. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members. One week's notice shall be given for such meetings, and the notice must designate the time and place of the meeting.

193F—1.5(543D) Executive officer's duties.

1.5(1) The executive officer shall cause complete records to be kept of applications for examination and registration, certificates and permits granted, and all necessary information in regard thereto.

1.5(2) The executive officer shall determine when the legal requirements for certification and registration have been satisfied with regard to issuance of certificates or registrations, and the executive officer shall submit to the board any questionable application.

1.5(3) The executive officer shall keep accurate minutes of the meetings of the board. The executive officer shall keep a list of the names of persons issued certificates as certified general real property appraisers, certified residential real property appraisers and associate real property appraisers.

193F—1.6(543D) Records, filings, and requests for public information. Unless otherwise specified by the rules of the department of commerce or the professional licensing and regulation division, the board is the principal custodian of its own agency orders, statements of law or policy issued by the board, legal documents, and other public documents on file with the board.

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours. The board maintains an office at 1920 SE Hulsizer Road, Ankeny, Iowa 50021. The office is open during regular business hours from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.

1.6(2) Records, documents and other information may be gathered, stored, and available in electronic format. Information, various forms, documents, and the law and rules may be reviewed or obtained anytime by the public from the board's Internet Web site located at <http://www.state.ia.us/iapp>.

1.6(3) Deadlines. Unless the context requires otherwise, any deadline for filing a document shall be extended to the next working day when the deadline falls on a Saturday, Sunday, or official state holiday.

193F—1.7(543D) Adoption, amendment or repeal of administrative rules.

1.7(1) The board shall adopt, amend or repeal its administrative rules in accordance with the provisions of Iowa Code section 17A.4. Prior to the adoption, amendment or repeal of any rule of the board, any interested person, as described in Iowa Code section 17A.4(1)“b,” may submit any data, views, or arguments in writing concerning such rule or may request to make an oral presentation concerning such rule. Such written comments or requests to make oral presentations shall be filed with the board at its official address and shall clearly state:

a. The name, address, and telephone number of the person or agency authoring the comment or request;

b. The number and title of the proposed rule, which is the subject of the comment or request as given in the Notice of Intended Action;

c. The general content of the oral presentation. A separate comment or request to make an oral presentation shall be made for each proposed rule to which remarks are to be asserted.

1.7(2) The receipt and acceptance for consideration of written comments and requests to make oral presentations shall be acknowledged by the board.

1.7(3) Written comments received after the deadline set forth in the Notice of Intended Action may be accepted by the board although their consideration is not assured. Requests to make an oral presentation received after the deadline shall not be accepted and shall be returned to the requester.

193F—1.8(22) Public records and fair information practices. Board rules on public records and fair information practices may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 13.

193F—1.9(68B) Sales of goods and services. Board rules on the sale of goods and services by board members may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 11.

193F—1.10(17A) Petitions for rule making. Persons wishing to file a petition for rule making should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 9.

193F—1.11(17A) Declaratory orders. Persons wishing to seek a declaratory order from the board should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 10.

193F—1.12(252J,261) Denial of issuance or renewal of license for nonpayment of child support or student loan. Board rules on the denial of the issuance or renewal of a license based on nonpayment of child support or student loan obligations may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 8.

193F—1.13(17A) Waivers and variances.

1.13(1) Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the division of professional licensing and regulation at 193 IAC 5.

1.13(2) In addition to the provisions of 193 IAC 5, the following shall apply for interim rulings:

a. The board chairperson, or vice chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. The executive officer shall, upon receipt of a petition that meets all applicable criteria established in 193 IAC 5, present the request to the board chairperson or vice chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

c. The chairperson or vice chairperson shall reserve the right to hold an electronic meeting of the board when prior board precedent does not clearly resolve the request, input of the board is deemed required and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

d. A waiver report shall be placed on the agenda of the next regularly scheduled board meeting and recorded in the minutes of the meeting.

e. This subrule on interim rulings does not apply if the waiver or variance was filed in a contested case.

193F—1.14(543D,17A,272C) Investigations and investigatory subpoenas. Board rules regarding investigations and investigatory subpoenas may be found at 193F IAC 8 and in the uniform rules for the division of professional licensing and regulation at 193 IAC 6.

193F—1.15(543D,17A,272C) Contested case procedures. Board rules on contested case procedures may be found at 193F IAC 8 and in the uniform rules for the division of professional licensing and regulation at 193 IAC 7.

193F—1.16(272C) Impaired licensees. Board rules governing impaired licensee committees may be found in the uniform rules for the division of professional licensing and regulation at 193 IAC 13.

These rules are intended to implement Iowa Code sections 543D.4, 543D.5, and 543D.17 and chapters 252J, 261, and 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed emergency 4/9/93—published 4/28/93, effective 4/9/93]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 9/26/02, Notice 8/21/02—published 10/16/02, effective 11/20/02]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

CHAPTER 2
DEFINITIONS

[Prior to 2/20/02, see 193F—Chapter 1]

193F—2.1(543D) Applicability. The following definitions shall be applicable to the rules of the real estate appraiser examining board.

“*Appraisal Foundation*” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois to develop qualifications and criteria for the appraisal profession.

“*AQB*” means the Appraiser Qualifications Board of the Appraisal Foundation.

“*ASB*” means the Appraisal Standards Board of the Appraisal Foundation.

“*Associate real property appraiser*” or “*associate appraiser*” means an individual who has registered with the board as an associate real property appraiser, as defined in Iowa Code section 543D.2(5), and who is training to become a certified residential or certified general real property appraiser.

“*Certified appraiser*” means an individual who has been certified in one of the following two classifications:

1. The certified residential real property appraiser classification, which is limited to the appraisal of one to four residential units without regard to transaction value.

2. The certified general real property appraiser classification, which applies to the appraisal of all types of real property.

“*FIRREA*” means the Financial Institutions Reform Recovery and Enforcement Act of 1989.

“*Knowingly*” means done with awareness and deliberateness.

“*Law*” means the “Iowa Voluntary Appraisal Standards and Appraiser Certification Law of 1989,” Iowa Code chapter 543D.

“*USPAP*” means the Uniform Standards of Professional Appraisal Practice published annually by the Appraisal Foundation.

This rule is intended to implement Iowa Code section 543D.2.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

CHAPTER 3 EXAMINATION

193F—3.1(543D) Types of appraiser certificates. There are two types of appraiser certificates:

1. Certified residential real property appraiser certificate, which classification shall consist of those persons who meet the requirements of 193F—5.1(543D).
2. Certified general real property appraiser certificate, which classification shall consist of those persons who meet the requirements of 193F—6.1(543D).

In addition, the board registers persons who meet the requirements of an associate real property appraiser pursuant to 193F—4.1(543D).

193F—3.2(543D) Examinations. Examinations for certified residential real property appraisers and certified general real property appraisers shall be AQB-endorsed and administered by the board or its authorized representative as often as the board deems necessary, but not less than one time per year.

3.2(1) Disclosure of confidential information. Members of the board shall not disclose a final examination score to any person other than the person who took the examination. Persons who take the examination may consent to the publication of their names on a list of passing candidates.

Other information relating to the examination results, including the specific grades by subject matter, shall be given only to the person who took the examination, except that the board may:

a. Disclose the specific grades by subject matter to the regulatory authority of any other state or foreign country in connection with the candidate's application for a reciprocal certificate or license from the other state or foreign country, but only if requested by the candidate.

b. Disclose the specific grades by subject matter to educational institutions, professional organizations, or others who have a legitimate interest in the information provided in conjunction with the scores.

3.2(2) The board shall enter into a contractual relationship with a qualified testing service to develop and administer AQB-endorsed examinations and shall maintain control over the examination process.

3.2(3) Any contract to implement subrule 3.2(2) shall require the testing service to:

- a.* Update the examination on a continual basis;
 - b.* Ensure that the examinations are related to appraiser classifications;
 - c.* Adequately inform applicants of the procedures and requirements for taking the examinations;
- and
- d.* Prepare and administer the examinations.

Failure to meet these requirements may be cause for cancellation of any contractual relationship, and such failures, if any, shall be determined solely by the board.

3.2(4) An applicant will not become eligible to apply for certification until the applicant has passed the examination approved by the board and complied with the appropriate experience requirement.

3.2(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months of passing the examination, that examination result loses its validity to support issuing an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from a lower-level credential to either the certified residential or certified general classification. Commencing January 1, 2008, the only examinations acceptable to the board are those prepared and graded using the AQB-adopted 2008 criteria. Applicants shall not be initially certified or upgraded on or after January 1, 2008, in reliance on examination results in connection with examinations completed prior to January 1, 2008. Applicants who successfully passed an examination prior to January 1, 2008, may only be certified or upgraded on or after January 1, 2008, if they are otherwise qualified and submit a completed application prior to January 1, 2008.

193F—3.3(543D) Conduct of applicant.

3.3(1) Any individual who subverts or attempts to subvert the examination process may, at the discretion of the board, have the individual's examination scores declared invalid for the purpose of

certification in Iowa, be barred from the appraisal certification examinations in Iowa, or be subject to the imposition of other sanctions that the board deems appropriate.

3.3(2) Conduct that subverts or attempts to subvert the examination process includes, but is not limited to:

a. Conduct that violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the examination; aiding by any means in the reproduction or reconstruction of any portion of the examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered examination.

b. Conduct that violates the standard of test administration, such as communicating with any other examination candidate during the administration of the examination; copying answers from another candidate or permitting one's answers to be copied by another candidate during the examination; referencing any books, notes, written or printed materials or data of any kind, other than the examination materials distributed.

c. Conduct that violates the examination process, such as falsifying or misrepresenting educational credentials or other information required for admission to the examination; impersonating an examination candidate or having an impersonator take the examination on one's behalf.

3.3(3) Any examination candidate who challenges a decision of the board under this rule may request a contested case hearing pursuant to 193—7.39(546,272C). The request for hearing shall be in writing, shall briefly describe the basis for the challenge, and shall be filed in the board's office within 30 days of the date of the board decision that is being challenged.

193F—3.4(543D) Application for certification. Applicants for certification or associate registration must successfully complete the appropriate examination.

3.4(1) All initial applications for certification or associate registration shall be made on forms provided by the board.

3.4(2) A certificate or associate registration shall contain the applicant's name, appraiser classification, Iowa certificate number and the signature of the board chairperson and vice chairperson.

3.4(3) An initial certificate shall not be issued until the applicant has demonstrated real property appraiser experience complying with Iowa Code section 543D.9 and rules 193F—5.2(543D) and 193F—6.2(543D).

3.4(4) There is no time limit within which qualifying education credit must be obtained; however, if the coursework is over five years old from the date of application, the applicant may be required to provide a brief description of the course as well as documentation of completion.

193F—3.5(543D) Work product review.

3.5(1) As a condition of original or upgrade certification, all applicants shall submit to the board four copies each of three appraisals dated within six months prior to submission. When submitting appraisals for work product review, the applicant shall include the application form provided by the board. The fee for processing review of the appraisals is provided in 193F—Chapter 12.

3.5(2) An applicant shall submit to the board a log for the past six months. The board will then select three appraisals at random for work product review and request that the applicant submit the selected appraisals and copies accompanied by the appropriate form and fee. The board may select the appraisals at random from the entire log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal. Applicants may also be requested to submit their work files for one or more of the submitted appraisals.

3.5(3) The board shall treat all appraisals received as public records unless the applicant notifies the board at the time of submission that a submitted appraisal is subject to the confidentiality provisions

of appraisal standards or is otherwise confidential under state or federal law. While applicants are encouraged to submit appraisals actually performed for clients, applicants may submit one or more demonstration appraisals if they are prepared based on factual information in the same manner as applicable to actual appraisal assignments and clearly marked as demonstration appraisals.

3.5(4) An applicant seeking original or upgrade certification as a certified general real estate appraiser shall submit one residential appraisal and two commercial appraisals for review.

3.5(5) The board, or a committee of the board, will evaluate the submitted work product for USPAP compliance with applicable appraisal standards. The board may submit one or more of the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards.

3.5(6) The work product evaluation process is not intended as an endorsement of an applicant's work product. No applicant or licensee shall represent the results of work product evaluation in communications with a client or in marketing to potential clients in a manner which falsely portrays the board's work product review as an endorsement of the appraiser or the appraiser's work product. Failure to comply with this prohibition may be grounds for discipline as a practice harmful or detrimental to the public.

3.5(7) The board views work product review, in part, as an educational process. While the board may deny an application based on an applicant's failure to adhere to appraisal standards or otherwise demonstrate a level of competency upon which the public interest can be protected, the board will attempt to work with applicants deemed in need of remedial assistance to arrive at a mutually agreeable plan. A remedial plan may include additional education, desk review, a mentoring program, or additional precertification experience.

3.5(8) An applicant who is denied licensure based on the work product review described in this rule, or on any other ground, shall be entitled to a contested case hearing as provided in 193—7.39(546,272C). Notice of license denial shall specify the grounds for denial, which may include any of the work performance-related grounds for discipline against a certified appraiser.

3.5(9) If probable cause exists, the board may open a disciplinary investigation against a licensee based on the work product review of an applicant. A potential disciplinary action could arise, for example, if the applicant is a certified residential real estate appraiser seeking an upgrade to a certified general real estate appraiser, or where the applicant is uncertified and is working under the supervision of a certified real estate appraiser who cosigned the appraisal report.

3.5(10) After accumulating a minimum of 500 hours of appraisal experience, a trainee may voluntarily submit work product to the board to be reviewed by a peer reviewer for educational purposes only. A maximum of three reports may be submitted for review during the experience portion of the certification process. A fee of \$50 per review will be charged.

3.5(11) Work product submitted in the work product review process shall be retained by the board for a period of 60 days following the issuance of the certificate requested by the applicant. The applicant may retrieve the work product through personal appearance at the board office or may make arrangements for the return of the work product to the applicant at the applicant's expense. If such arrangements are not made within 60 days of the date the certificate is issued, the board may dispose of the work product. This rule shall only apply if the applicant is issued the certificate requested in the application. If the application is deferred or denied, the board shall retain the work product for a period of at least five years from the date the application was deferred or denied. If an applicant withdraws an application from the board's consideration, the board shall retain the work product for a period of 60 days following withdrawal to provide the applicant the opportunity to personally retrieve the work product at the board office or otherwise arrange for the return of the work product to the applicant at the applicant's expense. The board reserves the right to retain copies of all work product submitted by any applicant.

These rules are intended to implement Iowa Code section 543D.8.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]
[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]
[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]
[Filed 6/6/03, Notice 4/30/03—published 6/25/03, effective 7/30/03]
[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]
[Filed 10/3/07, Notice 8/1/07—published 10/24/07, effective 11/28/07]

CHAPTER 4
ASSOCIATE REAL PROPERTY APPRAISER

[Prior to 2/20/02, see rule 193F—3.6(543D)]

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

193F—4.1(543D) Qualifications to register as an associate appraiser.

4.1(1) Education. A person applying for registration as an associate appraiser shall, at a minimum, satisfactorily complete the following AQB-approved, qualifying education modules required under the educational standards applicable on and after January 1, 2008, for certification as a certified residential appraiser or certified general appraiser:

- a. The 30-hour module on basic appraisal principles;
- b. The 30-hour module on basic appraisal procedures; and
- c. The 15-hour national USPAP course or its equivalent.

4.1(2) Application form. After completing the education outlined in subrule 4.1(1), a person applying for registration as an associate appraiser shall apply for registration on the form provided by the board. The form and the appropriate application fee shall be submitted to the board.

4.1(3) Registration denial. The board may deny an application for registration as an associate appraiser on any ground upon which the board may impose discipline against an associate appraiser, as provided in 193F—Chapter 7.

193F—4.2(543D) Supervision of associate appraisers.

4.2(1) Direct supervision. An associate appraiser is subject to the direct supervision of a certified real property appraiser. Qualifications for a supervisory appraiser are outlined in 193F—Chapter 15. An associate appraiser may be supervised by more than one supervisory appraiser.

4.2(2) Scope of practice. The scope of practice of an associate appraiser is the same as the scope of practice of the supervisory appraiser. An associate appraiser supervised by a certified residential appraiser shall accordingly be restricted to the scope of practice of a certified residential appraiser, while an associate appraiser supervised by a certified general appraiser shall be subject to the same scope of practice as a certified general appraiser.

4.2(3) Logs. An associate appraiser shall maintain an appraisal experience log that includes all information required by the AQB as a precondition for certification and shall maintain the log contemporaneously with the performance of supervised real property appraisal services. Required log entries shall, at a minimum, include the following for each appraisal:

- a. Type of property;
- b. Date of report;
- c. Address of appraised property;
- d. Description of work performed by the associate appraiser and scope of review and supervision of the supervising appraiser;
- e. Number of work hours; and
- f. Signature of supervising appraiser and the date signed.

4.2(4) Monitoring of logs. The associate appraiser shall have the appraisal log reviewed and signed by the supervisory appraiser at least monthly. Upon written request by the board, the associate appraiser and the supervisory appraiser shall submit a copy of the associate appraiser's log by letter, fax or E-mail within ten calendar days. The failure of an associate appraiser or supervisory appraiser to submit the requested log is a ground for disciplinary action. A separate appraisal log shall be maintained for each supervisory appraiser.

193F—4.3(543D) Renewal of associate appraiser registration. An associate appraiser registration must be renewed on a biennial basis as more fully described in 193F—Chapter 9. An associate appraiser

is subject to the same continuing education requirements as are applicable to a certified appraiser as a precondition for renewal. Continuing education requirements are outlined in 193F—Chapter 11.

193F—4.4(543D) Progress toward certification as a certified residential appraiser or certified general appraiser.

4.4(1) *Trainee classification.* The associate appraiser classification is intended for those persons training to become certified appraisers and is not intended as a long-term method of performing appraisal services under the supervision of a certified appraiser in the absence of progress toward certification. As a result, the board may impose deadlines for achieving certification, or for satisfying certain prerequisites toward certification, for those persons who apply to renew an associate appraiser registration more than two times following January 1, 2008. Deadlines, if any, would be imposed as a condition for the third or subsequent renewal after January 1, 2008.

4.4(2) *Factors to consider.*

a. The board may consider the following noninclusive list of factors when deciding whether to impose a deadline for achieving certification:

- (1) An associate appraiser's access to the educational courses required for certification;
- (2) Whether the associate appraiser had completed the college-level coursework required for certification in advance of registering as an associate appraiser or whether such coursework is in progress;
- (3) The associate appraiser's access to supervisory appraisers, the volume of the supervisory appraiser's practice, and the type of certification the associate is training to achieve;
- (4) The progress toward certification the associate appraiser had made prior to the imposition of new certification standards as of January 1, 2008; and
- (5) Such additional factors as may be relevant to the board's determination as to whether the associate appraiser is making good-faith progress toward certification.

b. While the board's policy is to work with associate appraisers and their supervisors in a cooperative manner, an associate appraiser who does not demonstrate good-faith progress toward certification shall be subject to the imposition of deadlines as described in subrule 4.4(1).

4.4(3) *Progress reports.* In order to assess an associate appraiser's progress toward certification, the board may request periodic progress reports from the associate appraiser and from the associate appraiser's supervisory appraiser or appraisers. Progress reports on the steps an associate appraiser has taken toward certification and the associate appraiser's plans for completing certification prerequisites shall be submitted to the board within ten calendar days of the board's written request. The failure of an associate appraiser or supervisory appraiser to submit the requested progress report is a ground for disciplinary action.

193F—4.5(543D) Applying for certification as a certified residential appraiser or certified general appraiser. An associate appraiser may apply for certification as a certified residential real property appraiser by satisfying the requirements of 193F—Chapters 5 and 13, or as a certified general real property appraiser by satisfying the requirements of 193F—Chapters 6 and 14. The requirements for each type of certification include education, experience, examination and work product review.

These rules are intended to implement Iowa Code chapters 543D and 272C.

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 4/6/06, Notice 3/1/06—published 4/26/06, effective 5/31/06]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

CHAPTER 5
CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

[Prior to 2/20/02, see rule 193F—3.4(543D) and 193F—Chapter 4]

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

193F—5.1(543D) Examination. Examination application requirements to obtain a certificate as a certified residential real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board of the Appraisal Foundation as follows:

5.1(1) In order to qualify to sit for the certified residential real property appraiser examination, the applicant must satisfy the following educational requirements:

a. Completion of 120 hours of courses in subjects related to real estate appraisal as listed below with particular emphasis on the appraisal of one to four unit residential properties.

- (1) Influences on real estate value;
- (2) Legal considerations in appraisal;
- (3) Types of value;
- (4) Economic principles;
- (5) Real estate markets and analysis;
- (6) Valuation process;
- (7) Property description;
- (8) Highest and best use analysis;
- (9) Appraisal math and statistics;
- (10) Sales comparison approach;
- (11) Site value;
- (12) Cost approach;
- (13) Income approach;
 1. Gross rent multiplier analysis;
 2. Estimation of income and expenses;
 3. Operating expense ratios;
 4. Direct capitalization;
- (14) Valuation of partial interests;
- (15) Appraisal standards and ethics;
- (16) Narrative report writing.

b. Credit toward the education requirement may be granted only when the length of the educational offering is at least 15 hours and the individual successfully completes an examination pertinent to that offering.

c. Effective January 1, 2004, 15 of the 120 hours must include the successful completion of the National USPAP Course or its equivalent. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP qualifying education shall be awarded only when the class is instructed by at least one AQB-certified USPAP instructor holding a state-issued certified residential or certified general appraiser credential in an active status and in good standing.

d. Credit for the education requirement may be obtained from the following:

- (1) Colleges or universities;
- (2) Community colleges or junior colleges;
- (3) Real estate appraisal or real estate related organizations;
- (4) State or federal agencies or commissions;
- (5) Proprietary schools;
- (6) Other providers approved by the board.

e. A maximum of one-half of the qualifying education may be over five years old. If the coursework is over five years old from the date of application, the applicant may be requested to provide a brief description of the course as well as documentation of completion.

f. A classroom hour is defined as 50 minutes out of each 60-minute segment. For coursework completed at a college, university, community college or junior college, each semester hour shall equal 15 classroom hours of credit, and each quarter hour shall equal 10 classroom hours of credit.

g. The applicant shall provide copies of the documentation as to completion of all courses claimed to qualify for the examination.

5.1(2) The board may verify educational credits claimed. Undocumented credits will be sufficient cause to invalidate the examination results pursuant to 193F—paragraph 3.3(2) “c.”

5.1(3) Responsibility for documenting the educational credits claimed rests with the applicant.

193F—5.2(543D) Experience required for initial certification. The experience required to be certified pursuant to Iowa Code section 543D.9 must meet the requirements of this rule. The objective of the demonstration of experience is to provide assurance that, before the applicant is issued a certificate, the applicant has obtained sufficient diversified experience to perform an appraisal.

5.2(1) An appraisal log shall be provided. The appraisal log shall, at a minimum, include the following for each appraisal:

- a.* Type of property;
- b.* Date of report;
- c.* Address of appraised property;
- d.* Description of work performed by the associate appraiser and scope of review and supervision of the supervising appraiser;
- e.* Number of work hours;
- f.* Signature of supervising appraiser.

5.2(2) The applicant for the certified residential real property appraiser certificate shall accumulate a total of 2500 hours of appraisal experience in no fewer than 24 months. Experience claimed must have been performed in compliance with USPAP. Acceptable appraisal experience includes, but is not limited to, the following:

- a.* Fee and staff appraisal;
- b.* Ad valorem tax appraisal;
- c.* Review appraisal;
- d.* Appraisal analysis;
- e.* Real estate consulting;
- f.* Highest and best use analysis;
- g.* Feasibility analysis/study.

5.2(3) The listings set out in 5.2(2) and 193F—subrule 6.2(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience, but an applicant who cannot demonstrate a background of experience of the diversity manifested by this rule shall bear the burden of showing that the applicant’s experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

5.2(4) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, in the form of written reports or file memoranda.

5.2(5) The board may require inspection, by the board itself or by its representatives, of documentation relating to an applicant’s claimed experience. Such inspection may be made at the board’s offices or such other place as the board may designate.

5.2(6) The board may deny an application based on disciplinary action taken against an associate appraiser registration.

193F—5.3(543D) Upgrade from a certified residential to a certified general appraiser. To upgrade from a certified residential real property appraiser to a certified general real property appraiser, see the

education, experience, examination and work product review requirements in 193F—Chapter 6 and in rule 193F—3.5(543D).

193F—5.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

5.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a registered associate real estate appraiser.

5.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve unsupervised experience or experience performed in the absence of registration as an associate real estate appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience a registered associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

b. Among the circumstances the board may favorably consider in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real estate appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real estate appraisers or otherwise offer an associate, trainee or equivalent category of licensure.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, the effective date of the requirement that qualifying experience be attained by the applicant as a registered associate real estate appraiser working under the direct supervision of a certified real estate appraiser.

These rules are intended to implement Iowa Code sections 543D.7, 543D.8, 543D.9 and 543D.16.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]
[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]
[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]
[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

CHAPTER 6
CERTIFIED GENERAL REAL PROPERTY APPRAISER

[Prior to 2/20/02, see rule 193F—3.3(543D) and 193F—Chapter 4]

NOTE: The AQB adopted changes to the qualification criteria effective January 1, 2008. The changes include increased education requirements that can be found in 193F—Chapter 13 for certified residential appraisers and in 193F—Chapter 14 for certified general appraisers.

193F—6.1(543D) Examination. Examination application requirements to obtain certification as a certified general real property appraiser shall be in compliance with the criteria as set forth by the Appraiser Qualifications Board of the Appraisal Foundation as follows:

6.1(1) In order to qualify to sit for the certified general real property appraiser examination, the applicant must satisfy the following educational requirements:

a. Completion of 180 hours of courses, which may include the 120 hours required for the certified residential real property appraiser classification, in subjects related to real estate appraisal as listed below with particular emphasis on the appraisal of nonresidential properties. Each course credited toward the required number of qualifying education hours should represent a progression through which the appraiser's knowledge increases.

- (1) Influences on real estate value;
- (2) Legal considerations in appraisal;
- (3) Types of value;
- (4) Economic principles;
- (5) Real estate markets and analysis;
- (6) Valuation process;
- (7) Property description;
- (8) Highest and best use analysis;
- (9) Appraisal math and statistics;
- (10) Sales comparison approach;
- (11) Site value;
- (12) Cost approach;
- (13) Income approach;
 1. Estimation of income and expenses;
 2. Operating statement ratios;
 3. Cash flow estimates;
 4. Measures of cash flow;
 5. Discounted cash flow analysis;
- (14) Valuation of partial interests;
- (15) Appraisal standards and ethics;
- (16) Narrative report writing.

b. Effective January 1, 2004, 15 of the 180 hours must include the successful completion of the National USPAP Course or its equivalent. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

c. Credit shall be awarded only when the USPAP class is instructed by at least one AQB-certified USPAP instructor holding a state-issued certified residential or certified general appraiser credential in an active status and in good standing.

d. Credit toward the education requirement may be granted only when the length of the educational offering is at least 15 hours and the individual successfully completes an examination pertinent to that offering.

e. Credit for the education requirement may be obtained from the following:

- (1) Colleges or universities;
- (2) Community colleges or junior colleges;
- (3) Real estate appraisal or real estate related organizations;
- (4) State or federal agencies or commissions;

- (5) Proprietary schools;
- (6) Other providers approved by the board.
- f.* A classroom hour is defined as 50 minutes out of each 60-minute segment.
- g.* For coursework completed at a college, university, community college or junior college, each semester hour shall equal 15 classroom hours of credit, and each quarter hour shall equal 10 classroom hours of credit.
- h.* Only one-half of the qualifying education may be over five years old. If the coursework is over five years old from the date of application, the applicant may be required to provide a brief description of the course as well as documentation of completion.
- i.* The applicant shall provide copies of completion certificates for all courses claimed to qualify for the examination.

6.1(2) The board may verify, on a test basis, educational credits claimed. Undocumented credits will be sufficient cause to invalidate any grade otherwise earned pursuant to 193F—paragraph 3.2(3) “c.”

6.1(3) Responsibility for documenting the educational credit claimed rests with the applicant.

193F—6.2(543D) Experience requirement for certified general real property appraiser.

6.2(1) The applicant for the certified general real property appraiser certificate shall accumulate a total of 3000 hours of appraisal experience of which at least 50 percent (1500 hours) shall be in nonresidential appraisal work. A minimum of 30 months is required to obtain the experience. Appraisal experience claimed must have been performed in compliance with USPAP.

6.2(2) Acceptable appraisal experience includes, but is not limited to, the following:

- a.* Fee and staff appraisal;
- b.* Ad valorem tax appraisal;
- c.* Technical review appraisal;
- d.* Appraisal analysis;
- e.* Real estate consulting;
- f.* Highest and best use analysis;
- g.* Feasibility analysis/study.

6.2(3) The verification for experience credit claimed by an applicant should include:

- a.* Type of property;
- b.* Date of report;
- c.* Address of appraised property;
- d.* Description of work performed and scope of review and supervision of the supervising appraiser;
- e.* Number of work hours.

6.2(4) The listings set out in 193F—subrules 5.2(2) and 6.2(2) are intended neither to exclude other sorts of appraisal experience nor to prescribe a specified minimum array of experience, but an applicant who cannot demonstrate a background of experience of the diversity manifested by this listing shall bear the burden of showing that the applicant’s experience is of sufficient quality and diversity to fulfill the objective of the demonstration of experience.

6.2(5) The board may deny an application based on disciplinary action taken against an associate appraiser.

193F—6.3(543D) Evidence of applicant’s experience.

6.3(1) The verification of experience credit claimed by an applicant shall be on forms prescribed by the board and shall be supported by a log as described in 193F—subrule 4.2(3) from which one or more appraisals may be selected for review by a reviewer approved by the board. The appraisal log requires the signature of a supervising appraiser when the applicant is applying for an upgrade from certified residential real property appraiser to certified general real property appraiser.

6.3(2) An applicant may be required to appear before the board or its representative to supplement or verify evidence of experience, in the form of written reports or file memoranda.

193F—6.4(543D) Supervised experience required for initial certification. Commencing with experience attained on or after July 1, 2007, all experience required for initial certification pursuant to Iowa Code section 543D.9 shall be performed as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

6.4(1) Acceptable experience. The board will accept as qualifying experience the documented experience attained while the applicant for initial certification was enrolled in an educational program recognized by the Appraisal Qualifications Board and Appraisal Subcommittee as providing qualifying experience for initial certification, whether or not the applicant was registered as an associate real estate appraiser at the time the educational program was completed. Such programs, if approved by federal authorities, will incorporate direct supervision by a certified real estate appraiser and such additional program features as to satisfy the purpose of requiring that qualifying experience be attained by the applicant as a registered associate real estate appraiser.

6.4(2) Exceptions.

a. Applicants for initial certification in Iowa who request that the board approve unsupervised experience or experience performed in the absence of registration as an associate real estate appraiser may file an application for approval on a form provided by the board. The burden shall be on the applicant to establish by clear and convincing evidence all of the following:

(1) The experience is qualifying experience under the substantive and documentation standards of the Appraisal Qualifications Board and Appraisal Subcommittee.

(2) Denial of the application would impose an undue hardship on the applicant.

(3) The nature of the experience attained is qualitatively and substantially equivalent to the experience a registered associate real estate appraiser would receive under the direct supervision of a certified real estate appraiser pursuant to the standards established in 193F—Chapter 15.

(4) Approval of the application would foster the board's goal of fair and consistent treatment of applicants.

(5) A basis exists beyond the individual control of the applicant to explain why the experience at issue could not have been attained by the applicant as a registered associate real estate appraiser under the direct supervision of a certified real estate appraiser.

b. Among the circumstances the board may favorably consider in ruling on an application for approval of unsupervised experience or experience attained by the applicant in the absence of registration as an associate real estate appraiser are:

(1) The experience was attained in a jurisdiction that, at the time, did not register associate real estate appraisers or otherwise offer an associate, trainee or equivalent category of licensure.

(2) The applicant attained the experience while employed in a county assessor's office engaged in mass appraisals, and the experience would otherwise qualify under applicable federal standards.

(3) The experience was attained between July 1, 2007, and January 1, 2008, and the appraiser could not reasonably have become registered and associated with a supervising certified appraiser by July 1, 2007, the effective date of the requirement that qualifying experience be attained by the applicant as a registered associate real estate appraiser working under the direct supervision of a certified real estate appraiser.

These rules are intended to implement Iowa Code sections 543D.7, 543D.8, 543D.9, 543D.12, 543D.16 and 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]

[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

CHAPTER 7
DISCIPLINARY ACTIONS AGAINST CERTIFIED AND
ASSOCIATE APPRAISERS

193F—7.1(17A,272C,543D) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 543D and related administrative rules for the protection and well-being of those persons who may rely upon registered associate appraisers or certified real property appraisers for the performance of real property appraisal services within this state and for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registered associate appraisers and certified real property appraisers to determine whether disciplinary proceedings are warranted, to initiate and prosecute disciplinary proceedings, to establish standards of professional conduct, and to impose discipline pursuant to Iowa Code sections 17A.13, 272C.3 to 272C.6 and 272C.10, and Iowa Code chapter 543D.

193F—7.2(543D) Standards of practice. The standards of practice governing all real property appraisal activities shall be the Uniform Standards of Professional Appraisal Practice, including Provisions, Rules, Comments, and Statements, as promulgated by the Appraisal Standards Board of the Appraisal Foundation. All registered associate appraisers and certified real property appraisers shall comply with the USPAP edition applicable to each appraisal assignment.

193F—7.3(17A,272C,543D) Grounds for discipline. The board may initiate disciplinary action against a registered associate appraiser or a certified real property appraiser based on any one or more of the following grounds:

7.3(1) *Fraud in procuring a registration or certificate.* Fraud in procuring or attempting to procure a registration or certificate includes an intentional perversion of the truth when making application for an initial, renewal, reciprocal, or temporary registration or certificate to practice in this state, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed;
- b. Attempting to file or filing with the board any false or forged diploma, course certificate, identification, credential, license, registration, certification, examination report, affidavit, or other record;
- c. Failing or refusing to provide complete information in response to a question on an application for initial or renewal registration or certification; or
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

7.3(2) *Professional incompetence.* Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimal standards of acceptable and prevailing practice of registered associate appraisers or certified real property appraisers in this state.
- e. A willful, repeated, or material deviation from USPAP standards, or other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including any violation of USPAP's COMPETENCY RULE.

7.3(3) *Deceptive practices.* Deceptive practices are grounds for discipline, whether or not actual injury is established, and include:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of real property appraising.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a registrant or certificate holder

in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

c. Acceptance of any fee by fraud or misrepresentation, or in violation of Iowa Code section 543D.18(2).

d. Falsification of business records or appraisal logs through false or deceptive representations or omissions.

e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education, reports submitted as a condition of probation, or any reports identified in this rule.

f. Making any false or misleading statement in support of an application for registration or certification submitted by another.

g. Knowingly presenting as one's own a certificate or registration, certificate or registration number, or signature of another or of a fictitious registrant or certificate holder, or otherwise falsely impersonating a certified appraiser or registered associate appraiser.

h. Representing oneself as a registered associate appraiser or certified appraiser when one's registration or certificate has been suspended, revoked, surrendered, or placed on inactive status, or has lapsed.

i. Permitting another person to use the registrant's or certificate holder's registration or certificate for any purposes.

j. Fraud in representations as to skill or ability.

k. Misrepresenting a specialized service as an appraisal assignment in violation of Iowa Code section 543D.18(3) or (5).

7.3(4) *Unethical, harmful or detrimental conduct.* Registrants and certificate holders engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical, harmful or detrimental to the public may include, but are not limited to, the following actions:

a. A violation of 2007 Iowa Acts, Senate File 137, section 5 (improper influence of an appraisal assignment).

b. Verbal or physical abuse, improper sexual contact, or making suggestive, lewd, lascivious, offensive or improper remarks or advances, if such behavior occurs within the practice of real property appraising or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior within the practice of real estate appraising would place the public at risk.

c. Engaging in a professional conflict of interest, or otherwise violating the public trust, as provided in Iowa Code section 543D.18(1) as amended by 2007 Iowa Acts, Senate File 137, section 3, and in USPAP's ETHICS RULE.

d. Aiding or abetting any unlawful activity for which a civil penalty can be imposed under 193F—16.2(543D).

7.3(5) *Lack of proper qualifications.*

a. Continuing to practice as a registered associate appraiser or certified real property appraiser without satisfying the continuing education required for registration or certificate renewal.

b. Acting as a supervisor without proper qualification, as provided in 193F—15.3(543D).

c. Habitual intoxication or addiction to the use of drugs, or impairment which adversely affects the registrant's or certificate holder's ability to practice in a safe and competent manner.

d. Any act, conduct, or condition, including lack of education or experience and careless or intentional acts or omissions, that demonstrates a lack of qualifications which are necessary to ensure a high standard of professional care as provided in Iowa Code section 272C.3(2) "b," or that impairs a practitioner's ability to safely and skillfully practice the profession.

e. Failure to meet the minimum qualifications for registration as an associate appraiser or certification as a certified real property appraiser.

f. Practicing outside the scope of a residential certification, or outside the scope of a supervisor's residential certification.

7.3(6) *Negligence by the registrant or certificate holder in the practice of the profession.* Negligence by the registrant or certificate holder in the practice of the profession includes:

- a. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
- b. A failure to exercise due care including negligent delegation of duties to or supervision of associate appraisers, or other employees, agents, or persons, in developing an appraisal, preparing an appraisal report, or communicating an appraisal, whether or not injury results.
- c. Neglect of contractual or other duties to a client.

7.3(7) *Professional misconduct.*

- a. A violation of any of the standards applicable to the development or communication of real estate appraisals as provided in 193F—7.2(543D).
- b. Violation of a regulation or law of this state, another state, or the United States, which relates to the practice of real estate appraising.
- c. Engaging in any conduct that subverts or attempts to subvert a board investigation, or failure to fully cooperate with a disciplinary investigation of the registrant or certificate holder or with a disciplinary investigation of persons who are not registrants or certificate holders, including failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's or certificate holder's last address on file at the board office.
- d. Revocation, suspension, or other disciplinary action taken by a licensing authority of this state or another state, territory, or country. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.
- e. A violation of Iowa Code section 543D.18 as amended by 2007 Iowa Acts, Senate File 137, section 4 (disclosure of significant real property appraisal assistance), or Iowa Code section 543D.18(6).
- f. A violation of 2007 Iowa Acts, Senate File 137, section 6 (restrictions on persons assisting in the development or reporting of a certified appraisal).
- g. Failure to retain records as provided in Iowa Code section 543D.19.
- h. Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

7.3(8) *Willful or repeated violations.* The willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 543D, or any administrative rule adopted by the board in the administration or enforcement of such chapters.

7.3(9) *Failure to report.*

- a. Failure by a registrant or certificate holder or an applicant for a registration or certificate to report in writing to the board any revocation, suspension, or other disciplinary action taken by a licensing authority, in Iowa or any other jurisdiction, within 30 calendar days of the final action.
- b. Failure of a registrant or certificate holder or an applicant for a registration or certificate to report, within 30 calendar days of the action, any voluntary surrender of a professional license to resolve a pending disciplinary investigation or action, in Iowa or any other jurisdiction.
- c. Failure to notify the board of a criminal conviction within 30 calendar days of the action, regardless of the jurisdiction where it occurred.
- d. Failure to notify the board within 30 calendar days after occurrence of any adverse judgment in a professional or occupational malpractice action, or settlement of any claim involving malpractice, regardless of the jurisdiction where it occurred.
- e. Failure to report another registrant or certificate holder to the board for any violation listed in these rules, pursuant to Iowa Code section 272C.9(2), promptly after the registrant or certificate holder becomes aware that a reportable violation has occurred.
- f. Failure to report to the board the appraiser's principal place of business and any change in the appraiser's principal place of business within 10 calendar days of such change; or failure to report to the

board all other addresses at which the appraiser engages in the business of preparing real estate appraisal reports, or any change in such information, within 30 calendar days of such occurrence or change.

g. Failure of an associate appraiser or supervisor to timely respond to board requests for information, as provided in 193F—Chapter 4.

7.3(10) *Failure to comply with board order.* Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order, or other decision of the board imposing discipline.

7.3(11) *Conviction of a crime.* Conviction, in this state or any other jurisdiction, of any felony related to the profession, or of any crime which is substantially related to the qualifications, functions, duties or practice of a person developing or communicating real estate appraisals to others. Any crime involving deception, dishonesty or disregard for the safety of others shall be deemed substantially related to the practice of real property appraising. A copy of the record of conviction or plea of guilty shall be conclusive evidence. “Conviction” shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated.

These rules are intended to implement Iowa Code chapters 17A, 272C and 543D and 2007 Iowa Acts, Senate File 137.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/28/96, Notice 1/3/96—published 3/27/96, effective 5/1/96]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

CHAPTER 8
INVESTIGATIONS AND DISCIPLINARY PROCEDURES

193F—8.1(272C,543D) Disciplinary action. The real estate appraiser examining board has authority pursuant to Iowa Code chapters 543D, 17A and 272C to impose discipline for violations of these Iowa Code chapters and the rules promulgated thereunder.

193F—8.2(17A,272C,543D) Initiation of disciplinary investigations. The board may initiate a licensee disciplinary investigation upon the board's receipt of information suggesting that a licensee may have violated a law or rule enforced by the board which, if true, would constitute grounds for licensee discipline.

193F—8.3(272C,543D) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. News articles or other media sources.
2. General or random review of publicly available work product.
3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code subsection 272C.4(9).
4. Complaints filed with the board by any member of the public.
5. License applications or other documents submitted to the board, including appraisal logs and appraisal reports.
6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of licensee compliance with conditions for licensure, such as continuing education or qualifying experience.

193F—8.4(17A,272C,543D) Conflict of interest. If the subject of a complaint is a member of the board, or if a member of the board has a conflict of interest in any disciplinary matter before the board, that member shall abstain from participation in any consideration of the complaint and from participation in any disciplinary hearing that may result from the complaint.

193F—8.5(272C,543D) Complaints. Written complaints may be submitted to the board office by mail, E-mail, facsimile or personal delivery by members of the public, including clients, business organizations, lenders, governmental bodies, licensees, or other individuals or entities with knowledge of possible law or rule violations by licensees.

8.5(1) Contents of a written complaint. Written complaints may be submitted on forms provided by the board that are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written media, shall contain the following information:

- a. The full name, address, and telephone number of the complainant (person complaining).
- b. The full name, address, and telephone number of the respondent (licensee against whom the complaint is filed).
- c. A statement of the facts and circumstances giving rise to the complaint, including a description of the alleged acts or omissions that the complainant believes demonstrate that the respondent has violated or is violating laws or rules enforced by the board.
- d. If known, citations to the laws or rules allegedly violated by the respondent.
- e. Evidentiary supporting documentation.
- f. Steps, if any, taken by the complainant to resolve the dispute with the respondent prior to filing a complaint.

8.5(2) Immunity. As provided by Iowa Code section 272C.8, a person shall not be civilly liable as a result of filing a report or complaint with the board unless such act is done with malice, nor shall an employee be dismissed from employment or discriminated against by an employer for filing such a report or complaint.

8.5(3) *Role of complainant.* The role of the complainant in the disciplinary process is limited to providing the board with factual information relative to the complaint. A complainant is not party to any disciplinary proceeding which may be initiated by the board based in whole or in part on information provided by the complainant.

8.5(4) *Role of the board.* The board does not act as an arbiter of disputes between private parties, nor does the board initiate disciplinary proceedings to advance the private interest of any person or party. The role of the board in the disciplinary process is to protect the public by investigating complaints and initiating disciplinary proceedings in appropriate cases. The board possesses sole decision-making authority throughout the disciplinary process, including the authority to determine whether a case will be investigated, the manner of the investigation, whether a disciplinary proceeding will be initiated, and the appropriate licensee discipline to be imposed, if any.

8.5(5) *Initial complaint screening.* All written complaints received by the board shall be initially screened by the board's executive officer to determine whether the allegations of the complaint fall within the board's investigatory jurisdiction and whether the facts presented, if true, would constitute a basis for disciplinary action against a licensee. Complaints which are clearly outside the board's jurisdiction, which clearly do not allege facts upon which disciplinary action would be based, or which are frivolous shall be referred by the board's executive officer to the board for closure at the next scheduled board meeting. All other complaints shall be referred by the board's executive officer to the board's disciplinary committee for committee review as described in subrule 8.8(1).

193F—8.6(272C,543D) Case numbers. Whether based on written complaint received by the board or complaint initiated by the board, all complaint files shall be tracked by a case numbering system. Complaints are assigned case numbers in chronological order with the first two digits representing the year in which the complaint was received or initiated, and the second two digits representing the order in which the case file was opened (e.g., 01-01, 01-02, 01-03, etc.). The board's executive officer shall maintain a case file log noting the date each case file was opened, whether disciplinary proceedings were initiated in the case, and the final disposition of the case. Once a case file number is assigned to a complaint, all persons communicating with the board regarding that complaint are encouraged to include the case file number to facilitate accurate records and prompt response.

193F—8.7(272C,543D) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code subsection 272C.6(4). Such information shall not be released to any person except as provided in that section.

193F—8.8(17A,272C,543D) Investigation procedures.

8.8(1) *Disciplinary committee.* The board chairperson shall annually appoint two to three members of the board to serve on the board's disciplinary committee. The disciplinary committee is a purely advisory body which shall review complaint files referred by the board's executive officer, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

8.8(2) *Committee screening of complaints.* Upon the referral of a complaint from the board's executive officer or from the full board, the committee shall determine whether the complaint presents facts which, if true, suggest that a licensee may have violated a law or rule enforced by the board. If the committee concludes that the complaint does not present facts which suggest such a violation or that the complaint does not otherwise constitute an appropriate basis for disciplinary action, the committee shall refer the complaint to the full board with the recommendation that the complaint be closed with no further action. If the committee determines that the complaint does present a credible basis for disciplinary action, the committee may either immediately refer the complaint to the full board recommending that a disciplinary proceeding be commenced or initiate a disciplinary investigation.

8.8(3) *Committee procedures.* If the committee determines that additional information is necessary or desirable to evaluate the merits of a complaint, the committee may assign an investigator or expert consultant, appoint a peer review committee, provide the licensee an opportunity to appear before the disciplinary committee for an informal discussion as described in rule 193F—8.9(17A,272C,543D) or request board staff to conduct further investigation. Upon completion of an investigation, the investigator, expert consultant, peer review committee or board staff shall present a report to the committee. The committee shall review the report and determine what further action is necessary. The committee may:

- a. Request further investigation.
- b. Determine there is not probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation of closure.
- c. Determine there is probable cause to believe that a law or rule enforced by the board has been violated, but that disciplinary action is unwarranted on other grounds, and refer the case to the full board with the recommendation of closure. The committee may also recommend that the licensee be informally cautioned or educated about matters which could form the basis for disciplinary action in the future.
- d. Determine there is probable cause to believe a disciplinary violation has occurred, and refer the case to the full board with the recommendation that the board initiate a disciplinary proceeding (contested case).

8.8(4) *Subpoena authority.* Pursuant to Iowa Code subsections 17A.13(1) and 272C.6(3), the board is authorized in connection with a disciplinary investigation to issue subpoenas to compel witnesses to testify or persons to produce books, papers, records and any other real evidence, whether or not privileged or confidential under law, which the board deems necessary as evidence in connection with a disciplinary proceeding or relevant to the decision about whether to initiate a disciplinary proceeding. Board procedures concerning investigative subpoenas are set forth in 193—Chapter 6.

193F—8.9(17A,272C,543D) Informal discussion. If the disciplinary committee considers it advisable, or if requested by the affected licensee, the committee may grant the licensee any opportunity to appear before the committee for a voluntary informal discussion of the facts and circumstances of an alleged violation, subject to the provisions of this rule.

8.9(1) An informal discussion is intended to provide a licensee an opportunity to share in an informal setting the licensee's side of a complaint before the board determines whether probable cause exists to initiate a disciplinary proceeding. Licensees are not required to attend an informal discussion. Because disciplinary investigations are confidential, licensees may not bring other persons with them to an informal discussion, but licensees may be represented by legal counsel.

8.9(2) Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question and answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, licensees who desire to attend an informal discussion must therefore waive their right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. Licensees would not be waiving their right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

8.9(3) Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

8.9(4) The disciplinary committee, subject to board approval, may propose a consent order at the time of the informal discussion. If the licensee agrees to a consent order, a statement of charges shall be filed simultaneously with the consent order, as provided in rule 193—7.4(17A,272C).

193F—8.10(272C,543D) Peer review committee (PRC). A peer review committee may be appointed by the board to investigate a complaint. The committee may consist of one or more certified general or certified residential real property appraisers registered to practice in Iowa. The board may appoint a single peer review consultant to perform the functions of a PRC when, in the board's opinion, appointing a committee with more members would be impractical, unnecessary or undesirable given the nature of the expertise required, the need for prompt action or the circumstances of the complaint. An individual shall be ineligible as a PRC member in accordance with the standard for disqualification found in 193—7.14(17A).

8.10(1) Authority. The PRC investigation may include activities such as interviewing the complainant, the respondent, and individuals with knowledge of the respondent's practice in the community; gathering documents; and performing independent analyses as deemed necessary. The board may give specific instructions to the PRC regarding the scope of the investigation. In the course of the investigation, PRC members shall refrain from advising the complainant or respondent on actions that the board might take.

8.10(2) Term of service. The PRC serves at the pleasure of the board. The board may dismiss any or all members of a PRC or add new members at any time.

8.10(3) Compensation. PRC members may receive compensation as the board may provide by contract. Within established budget limitations, PRC members may be reimbursed for reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties. The PRC shall not hire legal counsel, investigators, secretarial help or any other assistance without written authorization from the board.

8.10(4) Reports. Each PRC shall submit a written report to the board within a reasonable period of time.

8.10(5) Components of the report. The report shall include:

- a. Statement of the charge to the PRC;
- b. Description of the actions taken by the PRC in its investigation, including but not limited to appraisal review(s) and interviews with the respondent or complainant;
- c. Summary of the PRC's findings, including the PRC's opinion as to whether a violation occurred, citation of the specific USPAP violation(s), citation of the Iowa Code section(s) and Iowa Administrative Code rule(s) violated, and the PRC's opinion of the seriousness of the violation;
- d. Recommendation.

8.10(6) Recommended action. The PRC report shall recommend one of the following:

- a. Dismissal of the complaint;
- b. Further investigation;
- c. Disciplinary proceedings;
- d. Allowing the appraiser who is the subject of the complaint an opportunity to appear before the board for an informal discussion regarding the circumstances of the alleged violation.

If the PRC recommends further investigation or disciplinary proceedings, supporting information must be submitted to the board including citation of the specific USPAP violation(s), Iowa Code section(s) and Iowa Administrative Code rule(s) violated.

8.10(7) Disciplinary recommendations. When recommending disciplinary proceedings, a PRC shall refrain from suggesting a particular form of discipline, but may provide guidance on the severity of the violations that prompted the recommendation and may identify professional areas in which the appraiser needs additional education or supervision in order to safely practice.

8.10(8) Confidentiality. The PRC shall not discuss its findings and conclusions with any party to the complaint other than the board (through its report to the board) or board staff. PRC findings including the name of the complainant shall be kept confidential at all times. PRC findings shall be used only

for the purposes of the board's possible disciplinary action and not for any other court case, lawsuit, or investigation.

8.10(9) *Testimony.* In the event of formal disciplinary proceedings, PRC members may be required to testify.

193F—8.11(17A,272C,543D) Closing complaint files.

8.11(1) *Grounds for closing.* Upon the recommendation of the executive officer, the recommendation of the disciplinary committee, or on its own motion, the board may close a complaint file, with or without prior investigation. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

- a. The complaint alleges matters outside the board's jurisdiction.
- b. The complaint does not allege a reasonable or credible basis to believe that the subject of the complaint violated a law or rule enforced by the board.
- c. The complaint is frivolous or trivial.
- d. The complaint alleges matters more appropriately resolved in a different forum, such as civil litigation to resolve a contract dispute, or more appropriately addressed by alternative procedures, such as outreach education or rule making.
- e. The matters raised in the complaint are situational, isolated, or unrepresentative of a licensee's typical practice, and the licensee has taken appropriate steps to ensure future compliance and prevent public injury.
- f. Resources are unavailable or better directed to other complaints or board initiatives in light of the board's overall budget and mission.
- g. While the evidence may reveal one or more appraisal standards about which the appraiser should be more vigilant in the future, the issues appear correctable, are not likely to recur with proper diligence in the development and reporting of future appraisals, and do not reveal impediments to competent practice in the future.
- h. Other extenuating factors exist which weigh against the imposition of public discipline when considered in the context of the board's purpose and mission.

8.11(2) *Closing orders.* The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information.

If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17.3(1) "d." A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.

8.11(3) *Cautionary letters.* The board may issue a confidential letter of caution to a licensee when a complaint file is closed which informally cautions or educates the licensee about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the licensee. Informal cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a licensee continues a practice about which the licensee has been cautioned.

8.11(4) *Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

193F—8.12(17A,272C,543D) Initiation of disciplinary proceedings. Disciplinary proceedings may only be initiated by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, three members of the board shall constitute a quorum of the remaining five board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the executive officer may request the special appointment of one or more

substitute board members pursuant to Iowa Code section 17A.11, subsection 5. Discipline may only be imposed against a licensee by the affirmative vote of a majority of the members of the board who are not disqualified.

193F—8.13(17A,272C,543D) Disciplinary contested case procedures. Unless in conflict with a provision of board rules in this chapter, all of the procedures set forth in 193—Chapter 7 shall apply to disciplinary contested cases initiated by the board.

193F—8.14(543D) Decisions. The board shall make findings of fact and conclusions of law, and may take one or more of the following actions:

1. Dismiss the charges;
2. Suspend or revoke the appraiser's certification or associate's registration as authorized by law;
3. Impose civil penalties, the amount which shall be set at the discretion of the board, but which shall not exceed \$1000 per violation. Civil penalties may be imposed for any of the disciplinary violations specified in Iowa Code section 543D.17 and chapter 272C or for any repeat offenses;
4. Impose a period of probation, either with or without conditions;
5. Require reexamination;
6. Require additional professional education, reeducation, or continuing education;
7. Issue a citation and a warning;
8. Require desk review of the appraiser's work product;
9. Issue a consent order;
10. Impose any other form of discipline authorized by a provision of law that the board, in its discretion, believes is warranted under the circumstances of the case.

193F—8.15(543D) Civil penalties. Factors the board may consider when determining whether and in what amount to assess civil penalties include:

1. Whether other forms of discipline are being imposed for the same violation;
2. Whether the amount imposed will be a substantial economic deterrent to the violation;
3. The circumstances leading to the violation;
4. The severity of the violation and the risk of harm to the public;
5. The economic benefits gained by the appraiser as a result of the violation;
6. The interest of the public;
7. Evidence of reform or remedial action;
8. Time elapsed since the violation occurred;
9. Whether the violation is a repeat offense following a prior cautionary letter, disciplinary order, or other notice of the nature of the infraction;
10. The clarity of the issue involved;
11. Whether the violation was willful and intentional;
12. Whether the appraiser acted in bad faith;
13. The extent to which the appraiser cooperated with the board;
14. Whether the appraiser practiced appraising with a lapsed, suspended or revoked certificate or registration.

193F—8.16(272C,543D) Voluntary surrender. The board may accept the voluntary surrender of a license to resolve a pending disciplinary contested case or pending disciplinary investigation. The board shall not accept a voluntary surrender of a license to resolve a pending disciplinary investigation unless a statement of charges is filed along with the order accepting the voluntary surrender. Such voluntary surrender is considered disciplinary action and shall be published in the same manner as is applicable to any other form of disciplinary order.

193F—8.17(272C,543D) Reinstatement. In addition to the provisions of rule 193—7.38(17A,272C), the following provisions shall apply to license reinstatement proceedings:

8.17(1) The board may grant an applicant's request to appear informally before the board prior to the issuance of a notice of hearing on an application to reinstate if the applicant requests an informal appearance in the application and agrees not to seek to disqualify, on the ground of personal investigation, board members or staff before whom the applicant appears.

8.17(2) An order granting an application for reinstatement may impose such terms and conditions as the board deems desirable, which may include one or more of the types of disciplinary sanctions described in rule 193F—8.14(543D).

8.17(3) The board shall not grant an application for reinstatement when the initial order which revoked, suspended or restricted the license, denied license renewal, or accepted a voluntary surrender was based on a criminal conviction and the applicant cannot demonstrate to the board's satisfaction that:

- a.* All terms of the sentencing or other criminal order have been fully satisfied;
- b.* The applicant has been released from confinement and any applicable probation or parole; and
- c.* Restitution has been made or is reasonably in the process of being made to any victims of the crime.

These rules are intended to implement Iowa Code sections 543D.5, 543D.17 and 543D.18 and chapters 17A and 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 6/23/99]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]

[Filed 9/26/02, Notice 8/21/02—published 10/16/02, effective 11/20/02]

[Filed 11/2/07, Notice 8/29/07—published 11/21/07, effective 12/26/07]

CHAPTER 9
RENEWAL, EXPIRATION AND REINSTATEMENT OF
CERTIFICATES AND REGISTRATIONS, AND INACTIVE STATUS
[Prior to 2/20/02, see rules 193F—4.2(543D) and 193F—4.5(543D)]

193F—9.1(272C,543D) Biennial renewal.

9.1(1) Certificates and associate registrations must be renewed on a biennial basis or they shall lapse.

9.1(2) Persons whose last names begin with A to K shall renew in even-numbered years. Persons whose last names begin with L to Z shall renew in odd-numbered years. Certificates and registrations shall expire biennially on June 30.

9.1(3) An application to renew a certificate or registration shall be submitted on a form obtained from the board office or on the board's Web site. Applicants may renew electronically through a board-established electronic process, as available.

193F—9.2(272C,543D) Notices.

9.2(1) It is the policy of the board to mail renewal notices to certified and associate appraisers to the last address on file with the board in the May preceding certificate or registration expiration. Neither the failure of the board to mail such a notice nor the licensee's failure to receive such a notice shall excuse the requirement to timely renew and pay the renewal fee.

9.2(2) Certified and associate appraisers must ensure that the address on file with the board office is current and that the board is notified within 30 days of any address change.

193F—9.3(272C,543D) Renewal procedures.

9.3(1) *Date of filing.* Certified and associate appraisers shall file a timely and sufficient renewal application with the board by the June 30 deadline in the biennial renewal year. An application shall be deemed filed on the date received by the board, the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(2) *Continuing education.* An applicant for renewal shall report the applicant's compliance with the continuing education requirements provided in 193F—Chapter 11. Full compliance with applicable continuing education requirements is a condition of renewal in active status. Applications to renew certificates or registrations in active status that do not, on their face, demonstrate full compliance with all applicable continuing education requirements shall be rejected as insufficient, as provided in subrule 9.3(4).

9.3(3) *Background disclosures.* An applicant for renewal shall disclose such background and character information as the board requests, which may include disciplinary action taken by any jurisdiction regarding a professional license of any type, the denial of an application for a professional license of any type by any jurisdiction, and the conviction of any crime.

9.3(4) *Insufficient applications.* The board shall reject applications that are insufficient. A sufficient application within the meaning of Iowa Code section 17A.18(2) must:

- a. Be signed by the applicant if submitted in person or mailed, or be certified as accurate if submitted electronically;
- b. Be fully completed;
- c. Reflect, on its face, full compliance with all applicable continuing education requirements; and
- d. Be accompanied by the proper fee. The fee shall be deemed improper if, for instance, the amount is incorrect, the fee was not included with the application, the credit card number provided by the applicant is incorrect, the date of expiration of a credit card is omitted or incorrect, the attempted credit card transaction is rejected, or the applicant's check is returned for insufficient funds or written on a closed account.

9.3(5) *Resubmission of rejected applications.* The board shall promptly notify an applicant of the basis for rejecting an insufficient renewal application, and shall return or refund any fees received. Applicants for certificate or registration renewal may remedy the insufficiency and resubmit applications

that were rejected as insufficient. Resubmitted applications shall be deemed received when personally delivered to the board office, on the date of electronic submission or, if mailed, the date postmarked, but not the date metered. Resubmitted applications to renew that are not timely received by the board shall be treated as applications to reinstate, as provided in rule 193F—9.4(272C,543D).

9.3(6) *Administrative processing not determinative.* The administrative processing of an application to renew a certificate or registration shall not prevent the board from subsequently commencing a contested case to challenge the applicant's qualifications for continued licensure or to assert disciplinary charges if grounds exist to do so. The board may take such an action, for example, if an application to renew reflects full compliance with continuing education, but the licensee is unable to document compliance in a subsequent audit.

9.3(7) *Denial of timely and sufficient application to renew.* If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant stating the grounds for denial. The procedures described in rule 193—7.40(546,272C) shall apply.

193F—9.4(272C,543D) Failure to renew.

9.4(1) The certificate or registration of a certified or associate appraiser shall lapse unless the appraiser:

- a. Submits a timely and sufficient renewal application by the expiration date, or
- b. Submits a sufficient renewal application within 30 calendar days of the expiration date, accompanied by an additional penalty of 25 percent of the biennial renewal fee.

9.4(2) If a certified or associate appraiser fails to renew within the 30-day grace period provided for in subrule 9.4(1), the certificate or registration shall lapse and the appraiser shall be required to reinstate in accordance with subrule 9.4(3).

9.4(3) The board may reinstate a lapsed certificate or registration upon the applicant's submission of the appropriate form, payment of a reinstatement fee of \$150, and submission of evidence of completion of all required continuing education.

9.4(4) Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is lapsed. Any violation of this subrule shall be grounds for discipline.

193F—9.5(272C,543D) Inactive status.

9.5(1) *General purpose.* This rule establishes a procedure under which a person issued a certificate or associate registration may apply to the board to register in inactive status. Registration under this rule is available to a certificate holder or associate registrant residing within or outside the state of Iowa who is not engaged in Iowa in any practice for which a certificate or associate registration is required. A person eligible to register as inactive may, as an alternative to such registration, allow a certificate or associate registration to lapse. The board will continue to maintain a data base on persons registered as inactive, including information which may not routinely be maintained after a certificate or associate registration has lapsed through failure to renew. A person who registers as inactive will accordingly receive renewal applications, board newsletters and other mass communications from the board. Because a person registered in inactive status may not practice in Iowa or hold oneself out to the public as authorized to practice as a certified appraiser or registered associate appraiser, such person is not required to complete continuing education.

9.5(2) *Eligibility.* A person holding a lapsed or active certificate as a real property appraiser, or a lapsed or active registration as a registered associate, which has not been revoked or suspended may apply on forms provided by the board to register as inactive if the person is not engaged in the state of Iowa in any practice for which a certificate or associate registration is required. Such a person may be actively engaged in the practice of real estate appraising in another jurisdiction. Such a person may also engage in such appraisal practices as may be performed in Iowa by persons who do not hold a certificate as a real property appraiser or associate registration as long as the person does not hold oneself out to the public as a certified or associate real estate appraiser.

9.5(3) Affirmation. The application form shall contain a statement in which the applicant affirms that the applicant will not engage in any practice prohibited by subrule 9.5(2) in Iowa without first complying with all rules governing reinstatement to active status. A person in inactive status may reinstate to active status at any time pursuant to subrule 9.5(6).

9.5(4) Renewal. A person registered as inactive may renew the person's certificate or associate registration on the biennial schedule described in 193F—9.1(272C,543D). Such person is exempt from the continuing education requirements for renewal and will be charged a reduced rate, as provided in 193F—Chapter 12. An inactive certificate or associate registration shall lapse if not timely renewed. An active certificate holder or associate registrant may renew as inactive if such person has not completed all continuing education requirements and may thereafter apply for active status when the deficiency has been remedied.

9.5(5) Grounds for discipline. Certified and associate appraisers are not authorized to practice or to hold themselves out to the public as certified or registered appraisers during the period of time that the certificate or registration is in inactive status. Any violation of this subrule shall be grounds for discipline.

9.5(6) Reinstatement. A person registered as inactive shall apply for reinstatement to active status prior to engaging in any practice in Iowa that requires certification or associate registration. An application for reinstatement to active status shall be on a form provided by the board, shall demonstrate full compliance with all applicable continuing education requirements, and shall be accompanied by a \$50 reinstatement fee and the biennial fee for active status. Such an applicant shall be given credit for renewal fees previously paid if the person applies for reinstatement at other than the person's regular renewal date. A person changing from active to inactive status during a biennial renewal period shall not, however, be entitled to a refund of any of the fees previously paid to attain active status.

193F—9.6(272C,543D) Property of the board. Every certificate or associate registration issued by the board shall, while it remains in the possession of the holder, be preserved by the holder but shall, nevertheless, always remain the property of the board. In the event that a certificate or associate registration is revoked or suspended, or is not renewed, or is registered in inactive status, it shall, on demand, be delivered by the holder to the board. The board shall generally not request return of a certificate or associate registration if it has not been revoked, suspended or voluntarily surrendered in a disciplinary action, but may do so if the board reasonably determines that grounds exist to believe that a person holding a lapsed or inactive certificate or associate registration has engaged in a practice for which active certification or registration is required.

These rules are intended to implement Iowa Code section 543D.5.

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

CHAPTER 10
RECIPROCITY

[Prior to 2/20/02, see 193F—Chapter 5]

193F—10.1(543D) Nonresident certification by reciprocity.

10.1(1) A nonresident of Iowa seeking certification in this state shall apply on forms provided by the board and pay the appropriate fee required in rule 193F—12.1(543D).

10.1(2) The board may issue a reciprocal certificate to a nonresident individual who is certified and demonstrates good standing in another state. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov.

10.1(3) A reciprocal certified appraiser shall comply with all provisions of Iowa law and rules.

10.1(4) Reciprocal certified appraisers shall be required to pay the federal registry fee as required in rule 193F—12.3(543D).

10.1(5) The board may, at its discretion, request work product from an applicant for certification by reciprocity for good cause shown, such as an applicant's having a prior history in Iowa that includes a disciplinary investigation or disciplinary action. If work product is requested, the appraiser shall be subject to the process set forth in 193F—subrule 3.5(2) and shall pay the appropriate fee as required in 193F—12.1(543D).

193F—10.2(543D) Nonresident temporary practice.

10.2(1) The board will recognize, on a temporary basis and for a maximum of two assignments per year, the certification or licensure of an appraiser issued by another state.

10.2(2) The appraiser must register with the board and identify the property(ies) to be appraised, the name and address of the client and the estimated length of time the appraiser will be in the state. The appraiser must demonstrate good standing to be considered for a temporary practice permit. An appraiser who is listed in good standing on the National Registry of the Appraisal Subcommittee satisfies the requirement that good standing be demonstrated and does not need to submit additional documentation. An appraiser who is not listed in good standing on the National Registry of the Appraisal Subcommittee must supply an official letter of good standing issued by the licensing board of the appraiser's resident state and bearing its seal. An appraiser may verify the appraiser's status on the National Registry of the Appraisal Subcommittee by accessing the Web site at www.asc.gov. Registration shall be on a form provided by the board and submitted to the board office prior to the performance of the appraisal. The appraiser shall pay the appropriate fee as required in 193F—12.1(543D).

These rules are intended to implement Iowa Code sections 543D.10 and 543D.11.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]

[Filed 3/27/08, Notice 1/30/08—published 4/23/08, effective 5/28/08]

CHAPTER 11
CONTINUING EDUCATION
[Prior to 2/20/02, see 193F—Chapter 6]

193F—11.1(272C,543D) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Approved program*” means a continuing education program, course, or activity that satisfies the standards set forth in these rules and has received advance approval of the board pursuant to these rules.

“*Approved provider*” means a person or an organization that has been approved by the board to conduct continuing education programs pursuant to these rules.

“*Board*” means the Iowa real estate appraiser examining board.

“*Continuing education*” means education which is obtained by a person certified to practice real estate appraising in order to maintain, improve, or expand skills and knowledge obtained prior to initial certification or registration, or to develop new and relevant skills and knowledge, all as a condition of renewal.

“*Credit hour*” means the value assigned by the board to a continuing education program.

“*Guest speaker*” means an individual who teaches an appraisal education program on a one-time-only or very limited basis and who possesses a unique depth of knowledge and experience in the subject matter.

“*Home-study/correspondence program*” means a computer-generated program, such as CD-ROM, or written materials or exercises intended for self-study, which does not include simultaneous interaction with an instructor but does include tests transmitted to the provider for review and grading.

“*Hour*” means 50 minutes of instruction.

“*Live instruction*” means an educational program delivered in a classroom setting or through videoconferencing whereby the instructor and student carry out essential tasks while together.

193F—11.2(272C,543D) Continuing education requirements.

11.2(1) Certified residential, certified general and associate appraisers must demonstrate compliance with the following continuing education requirements as a condition of biennial renewal:

a. A minimum of 28 credit hours in approved continuing education programs must be acquired during the two-year renewal period. Carryover hours from a previous renewal period are not allowed.

b. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases the appraiser’s skill, knowledge and competency in real estate appraising. Credit may be granted for educational offerings that are consistent with the purpose of continuing education. A minimum of 14 of the required 28 credit hours must involve courses that address one or more of the following subject areas: real estate appraisal law and rules, report writing, cost approach, sales approach, income approach, economic principles, legal considerations in appraisal, real estate markets and analysis, highest and best use analysis, appraisal math and statistics, site value, valuation of partial interests or appraisal ethics.

c. Appraisers must successfully complete the seven-hour National USPAP Update Course, or its equivalent, each two-year renewal cycle. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP continuing education credit shall be awarded only when the class is instructed by an AQB-certified instructor(s) and when the class is instructed by at least one state-certified residential or state-certified general appraiser. Individuals who are credentialed in more than one jurisdiction shall not have to take more than one seven-hour National USPAP Update Course within a two-calendar-year period for the purposes of meeting AQB criteria.

d. Effective with renewals commencing in June 2008, appraisers must successfully complete a seven-hour course in report writing each two-year renewal cycle.

11.2(2) A maximum of 14 of the required 28 credit hours may be acquired in approved home-study/correspondence programs.

11.2(3) A maximum of 14 of the required 28 credit hours may be claimed by an instructor for teaching one or more approved continuing education programs in an amount equal to the credit hours approved for attendees. Instructors claiming such credit must teach the appraisal course during the renewal cycle in which credit is claimed and may not claim the course more than once in the renewal cycle. The board may request supportive documentation to ascertain course content and to verify the date(s), time, place and hours taught.

11.2(4) An applicant seeking to renew an initial certificate or registration issued less than 185 days prior to renewal is not required to report any continuing education. An applicant seeking to renew an initial certificate or registration issued for 185 days to 365 days prior to renewal must demonstrate completion of at least 14 credit hours, including at least 7 credit hours of report writing and 7 credit hours of the most recent National USPAP Update. An applicant seeking to renew an initial certificate or registration issued 365 days prior to renewal or more must demonstrate completion of at least 28 credit hours, including at least 7 credit hours of report writing and 7 credit hours of the most recent National USPAP Update.

11.2(5) Prior to reactivation of a certified general registration or a certified residential registration, a certified credential holder in inactive or lapsed status must complete all required continuing education hours that would have been required if the certified credential holder was in active status. The required hours must also include the most recent edition of a 7-hour National USPAP Update Course. Waivers may not be granted to credential holders who have failed to meet the continuing education requirements.

11.2(6) During each two-year renewal period, a continuing education program may be taken for credit only once, except USPAP courses.

11.2(7) Successful completion of a continuing education program requires 90 percent attendance. Continuing education credits shall not be granted to attendees who are present for less than 90 percent of the scheduled class meeting.

11.2(8) An applicant may claim continuing education credits earned in a state that has a continuing education requirement for renewal of a real estate appraisal certificate if the program is approved by the appraisal certification board of that state or the Appraiser Qualifications Board for continuing education purposes. All other programs must be approved upon application to the board pursuant to rules 11.4(272C,543D), 11.5(272C,543D) and 11.6(272C,543D).

11.2(9) A person certified or registered to practice real estate appraising in Iowa shall be deemed to have complied with Iowa's continuing education requirements for periods in which the person is a resident of another state or district having continuing education requirements for real estate appraising and meets all requirements of that state or district. Deferrals may not be granted to credential holders, except in the case of persons returning from active military duty. Those persons may be placed in active status for a period of up to 90 days pending completion of all continuing education requirements.

193F—11.3(272C,543D) Hardship and disability provisions.

11.3(1) Rescinded IAB 1/2/08, effective 2/6/08.

11.3(2) An applicant seeking a waiver, modification, extension of time or other form of reasonable accommodation due to a disability, as defined in the Americans with Disabilities Act, must include an attending physician's verification of the disability and a detailed description of the type of accommodation requested.

193F—11.4(272C,543D) Minimum program qualifications.

11.4(1) Continuing education programs, as a condition of board approval, must provide a formal program of learning that contributes to the growth in the professional knowledge and professional competence of real estate appraisers.

11.4(2) Continuing education programs dealing with the following subject areas will generally be acceptable:

- a. Ad valorem taxation;
- b. Agriculture production and economics;
- c. Agronomy/soil;

- d.* Arbitrations;
- e.* Business courses related to the practice of real estate appraisal;
- f.* Construction estimating;
- g.* Cost approach;
- h.* Ethics and standards of professional practice;
- i.* Income approach;
- j.* Land use planning, zoning and taxation;
- k.* Litigation;
- l.* Management, leasing, brokerage time sharing;
- m.* Property development;
- n.* Real estate appraisal law and rules;
- o.* Real estate appraisal (valuations/evaluations);
- p.* Real estate law;
- q.* Real estate financing and investment;
- r.* Real estate appraisal-related computer applications;
- s.* Real estate securities and syndication;
- t.* Real property exchange;
- u.* Production economics;
- v.* Sales approach;
- w.* USPAP.

11.4(3) The following programs will not be acceptable:

- a.* Sales promotion or other meetings held in conjunction with the appraiser's general business;
- b.* Time devoted to breakfast, lunch or dinner;
- c.* A program certified by the use of a challenge examination. The required number of hours must be completed to receive credit hours;
- d.* Meetings that are a normal part of the in-house staff or employee training;
- e.* Home-study/correspondence programs which are not tested and successfully completed;
- f.* Programs that do not provide at least three credit hours.

11.4(4) Continuing education credit will be granted only for whole hours, with a minimum of 50 minutes constituting one hour. For example, 100 minutes of continuous instruction would count as two credit hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would only count as one hour.

11.4(5) Continuing education credit may be approved for university or college courses in qualifying topics according to the following formula: Each semester hour of credit shall equal 15 credit hours and each quarter hour of credit shall equal 10 credit hours.

193F—11.5(272C,543D) Standards for provider and program approval. Providers and programs must satisfy the following minimum standards in order to be preapproved in accordance with the procedures established in rule 11.4(272C,543D) and in order to maintain approved status.

11.5(1) The program must be taught or developed by individuals who have the education, training and experience to be considered experts in the subject matter of the program and competent in the use of teaching methods appropriate to the program.

11.5(2) Live instruction programs must be taught by instructors who have successfully completed an instructor development workshop within 24 months preceding board approval of the program.

11.5(3) In determining whether an instructor is qualified to teach a particular program, the board will consider whether the instructor has an ability to teach and an in-depth knowledge of the subject matter.

11.5(4) An instructor may demonstrate the ability to teach by meeting one or more of the following criteria:

- a.* Hold a bachelor's degree or higher in education from an accredited college (attach a copy of transcripts);
- b.* Hold a current teaching credential or certificate in any real estate or real estate-related fields (attach copy);

c. Hold a certificate of completion in the area of instruction from an instructor institute, workshop or school that is sponsored by a member of the Appraisal Foundation (detail specific teaching experiences);

d. Hold a full-time current appointment to the faculty of an accredited college;

e. Other, as the board may determine.

11.5(5) An instructor may demonstrate in-depth knowledge of the program's subject matter by meeting one or more of the following criteria:

a. Hold a bachelor's degree or higher from an accredited college with a major in a field of study directly related to the subject matter of the course the instructor proposes to teach, such as business, economics, accounting, real estate or finance (attach copy of transcript);

b. Hold a bachelor's degree or higher from an accredited college and have five years of appraisal experience related to the subject matter of the course the instructor proposes to teach (attach copy of transcript and document how the instructor's experience is related to the subject matter the instructor proposes to teach);

c. Hold a generally recognized professional real property appraisal designation or be a sponsor member of the Appraisal Foundation;

d. Other, as the board may determine.

11.5(6) As of January 1, 2004, only AQB-certified USPAP instructors, listed on the Web site of the Appraisal Foundation may teach the national USPAP courses including the 15-hour tested prelicense course and the 7-hour continuing education course.

11.5(7) Course content and materials must be accurate, consistent with currently accepted standards relating to the program's subject matter and updated no later than 30 days after the effective date of a change in standards, laws or rules.

11.5(8) Programs must have an appropriate means of written evaluation by participants. Evaluations shall include the relevance of the materials, effectiveness of presentation, content, facilities, and such additional features as are appropriate to the nature of the program.

11.5(9) No part of any course shall be used to solicit memberships in organizations, recruit appraisers for affiliation with any organization or advertise the merits of any organization or sell any product or service.

11.5(10) Providers must clearly inform prospective participants of the number of credit hours preapproved by the board for each program and all applicable policies concerning registration, payment, refunds, attendance requirements and examination grading.

11.5(11) Procedures must be in place to monitor whether the person receiving credit hours is the person who attended or completed the program.

11.5(12) Providers must be accessible to students during normal business hours to answer questions and provide assistance as necessary.

11.5(13) Providers must comply with or demonstrate exemption from the provisions of Iowa Code sections 714.14 to 714.25.

11.5(14) Providers must designate a coordinator in charge of each program who will act as the board's contact on all compliance issues.

11.5(15) Programs shall not offer more than eight credit hours in a single day.

11.5(16) Providers shall not provide any information to the board, the public or prospective students which is misleading in nature. For example, providers may not refer to themselves as a "college" or "university" unless qualified as such under Iowa law.

11.5(17) Providers must establish and maintain for a period of five years complete and detailed records on the programs successfully attended by each Iowa participant.

11.5(18) Providers must issue an individual certificate of attendance to each participant upon successful completion of the program. The certificate must be no larger than 8½" × 11" and must include the provider name and number, program name and number, name of attendee, date program was completed, number of approved credit hours, and the signature of the coordinator or other person authorized by the board.

11.5(19) Program providers and instructors are solely responsible for the accuracy of all program materials, instruction and examinations. Board approval of a provider or program is not an assurance or warranty of accuracy and shall not be explicitly or implicitly marketed or advertised as such.

193F—11.6(272C,543D) Acceptable distance education courses. Distance education is an education process based on the geographical separation of student and instructor. A distance education course is acceptable to meet class hour requirements if:

11.6(1) The course provides interaction. Interaction is a reciprocal environment in which the student has verbal or written communication with the instructor; and

11.6(2) Content approval is obtained from the AQB, a state licensing jurisdiction, or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. Nonacademic credit college courses provided by a college shall be approved by the AQB or the state licensing jurisdiction; and

11.6(3) Course delivery mechanism approval is obtained from one of the following sources:

- a. AQB-approved organizations providing approval of course design and delivery; or
- b. A college that qualifies for content approval pursuant to subrule 11.6(2) that awards academic credit for the distance education course; or
- c. A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.

193F—11.7(272C,543D) Applications for approval of providers and programs. Applications for approval of providers and programs must be submitted on forms prescribed by the board. Board approval is effective for 24 months, including the month of approval.

11.7(1) Approval must be obtained for each program separately.

11.7(2) A nonrefundable fee of \$50 must be submitted for each program except for programs that have been approved by the Appraiser Qualifications Board.

11.7(3) All required forms and attachments must be submitted for approval at least 30 days prior to the first offering of each program. The board will approve or deny each program, in whole or part, within 15 days of the date the board receives the fee and fully completed application.

11.7(4) Application forms will request information including, but not limited to, the following:

- a. Program description;
- b. Program purpose;
- c. Difficulty level;
- d. Learning objectives for each major topic that specify the level of knowledge or competency the student should demonstrate upon completing the program;
- e. Description of the instructional methods utilized to accomplish the learning objective;
- f. Identifying information for all guest speakers or instructors and such documentation as is necessary to verify compliance with the instructor qualifications described in subrule 11.5(5);
- g. Copies of all instructor and student program materials;
- h. Copies of all examinations and a description of all grading procedures;
- i. A description of the diagnostic assessment method(s) used when examinations are not given;
- j. Copies of prospective brochures or narrative descriptions of the program as will be advertised to prospective students;
- k. Such information as needed to verify compliance with board rules;
- l. The name, address, telephone number, fax number and E-mail address for the program's coordinator;
- m. Such other information as the board deems reasonably needed for informed decision making.

11.7(5) The board shall assign each provider and program a number. This number shall be placed on all correspondence with the board, all subsequent applications by the same provider, and all certificates of attendance issued to participants.

193F—11.8(272C,543D) Waiver of application fees. Application fees may be waived for approved programs sponsored by a federal, state, or local governmental agency when the program is offered at no cost or at a nominal cost to participants. A request for waiver of application fees should be made by the provider or certificate holder at the time the application is filed with the board.

193F—11.9(272C,543D) Continuing education committee. Upon majority vote of the board, the board chairperson may appoint, on an annual basis, a continuing education committee to approve or deny, in whole or part, applications for provider and program approval and hardship and disability waivers pursuant to rule 11.3(272C,543D), and credits claimed by appraisers on certification renewal forms. The committee shall be comprised of three members of the board, at least two of whom are appraisers. Alternatively, the board chairperson may delegate to the executive secretary authority to approve or deny course applications subject to the applicant's right to a hearing as provided for in rule 11.12(272C,543D).

193F—11.10(272C,543D) Appraiser request for preapproval of continuing education programs. An appraiser seeking credit for attendance and participation in a program which is to be conducted by a provider not accredited or otherwise approved by the board shall apply for approval to the board at least 15 days in advance of the commencement of the activity. The board shall approve or deny the application in writing. Application for prior approval of a continuing education activity shall include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title and hour-by-hour outline of the program, course or activity;
5. Credit hours requested for approval;
6. Date of program; and
7. Principal instructor(s).

193F—11.11(272C,543D) Appraiser request for postapproval of continuing education program. An appraiser seeking credit for attendance and participation in a program that was not conducted by an approved provider or approved by the licensing authority in another state or otherwise approved by the board shall submit to the board a request for credit for the program. Within 15 days after receipt of the request, the board shall advise the requester in writing whether the program is approved and the number of hours allowed. Appraisers not complying with the requirement of this rule may be denied credit for the program. Application for postapproval of a continuing education program shall include the following fee and information:

1. Application fee of \$25;
2. School, firm, organization or person conducting the program;
3. Location of the program;
4. Title of program and description of program;
5. Credit hours requested for approval;
6. Dates of program;
7. Principal instructor(s); and
8. Verification of attendance.

193F—11.12(272C,543D) Review of provider or program. The board on its own motion or upon receipt of a complaint or negative evaluation may monitor or review any approved program or provider and, upon evidence of significant variation in the program presented from the program approved, a violation of board rules, or material misstatement or omission in the application form, may withdraw approval of the provider or program and disallow all or any part of the approved hours granted to the provider. The provider, as a condition of approval, agrees to allow the board or its authorized representatives to monitor ongoing compliance with board rules through means including, but not limited to, unannounced attendance at programs.

193F—11.13(272C,543D) Hearings. In the event of denial, in whole or in part, of any application for approval of a continuing education program or provider, or credit for a continuing education program, or withdrawal of approval of a continuing education program or provider, the provider or appraiser shall have the right, within 20 days after the sending of the notification of the denial or withdrawal by ordinary mail, to request, in writing, a hearing which shall be held within 60 days after receipt of the written request for hearing. The hearing shall be conducted by the board, a panel of the board, or a qualified administrative law judge designated by the board. If the hearing is conducted by a panel of the board or an administrative law judge, a transcript of the hearing shall be presented to the board with the proposed decision. The decision of the board, or the decision of the panel of the board or an administrative law judge after adoption or amendment by the board, shall be final.

These rules are intended to implement Iowa Code sections 543D.5, 543D.9 and 543D.16 and chapter 272C.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]
[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]
[Filed 12/22/97, Notice 11/5/97—published 1/14/98, effective 2/18/98]
[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]
[Filed 5/5/02, Notice 3/20/02—published 5/29/02, effective 7/3/02]
[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]
[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]
[Filed 6/1/07, Notice 3/28/07—published 6/20/07, effective 7/25/07]
[Filed 12/7/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

CHAPTER 12

FEES

[Prior to 2/20/02, see 193F—Chapter 10]

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

Initial examination application fee	\$100
Examination fee (and reexamination fee)	\$145
Biennial registration fee for active status:	
Certified general real property appraiser	\$360
Certified residential real property appraiser	\$360
Associate real property appraiser	\$250
Biennial registration fee for inactive status:	
Certified general real property appraiser	\$100
Certified residential real property appraiser	\$100
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$150
Reciprocal application fee (one time only)	\$50
Reciprocal registration fee (biennial)	\$360
Fee to reinstate a lapsed license	\$150 (plus the registration fee)
Fee to reinstate an inactive license to active status	\$50
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	\$50
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report

193F—12.2(543D) Prorating of registration fees. An applicant applying for initial registration or certification within 12 months from the applicant's required renewal date, pursuant to 193F—9.1(543D), shall pay half the required fee. An applicant applying for initial registration or certification more than 12 months from the applicant's required renewal date shall pay the full registration fee.

193F—12.3(543D) Federal registry fee. The board shall collect and transmit to the Federal Financial Institutions Examination Council, on an annual basis, a roster of individuals who have received certification or registration as real property appraisers and a registry fee of \$25 for each individual listed on the roster. The registry fee is included in the registration fee.

These rules are intended to implement Iowa Code section 543D.6.

[Filed 8/1/91, Notice 5/29/91—published 8/21/91, effective 9/25/91]

[Filed 12/12/95, Notice 10/25/95—published 1/3/96, effective 2/7/96]

[Filed 11/9/00, Notice 8/23/00—published 11/29/00, effective 1/3/01]

[Filed 2/1/02, Notice 11/28/01—published 2/20/02, effective 3/27/02]

[Filed 6/6/03, Notice 4/30/03—published 6/25/03, effective 7/30/03]

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]
[Filed 2/22/07, Notice 1/17/07—published 3/14/07, effective 4/18/07]
[Filed 7/13/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]
[Filed 3/27/08, Notice 1/30/08—published 4/23/08, effective 5/28/08]

CHAPTER 13
CERTIFIED RESIDENTIAL APPRAISER
EDUCATION REQUIREMENTS

193F—13.1(543D) Existing credential holders. Existing credential holders in good standing shall be considered in compliance with current Appraiser Qualifications Board criteria if they have passed an AQB-approved qualifying examination for that credential. This applies to reciprocity, temporary practice, renewals, and applications for the same credential in another jurisdiction. All credential holders must comply with ongoing requirements for continuing education and state renewal procedures.

193F—13.2(543D) Education requirements for certified residential licensing. Following are the education requirements that an individual must meet to apply for a certified residential license, effective January 1, 2008. The changes include increased required education, which is summarized as follows:

Category	Requirements Prior to 1/1/08	Requirements Effective 1/1/08	1/1/08 College-Level Course Requirements
Certified Residential	120 hours	200 hours	21 semester credit hours covering the following subject matter courses: English composition; principles of economics (micro or macro); finance; algebra, geometry or higher mathematics; statistics; introduction to computers—word processing/spreadsheets; and business or real estate law. In lieu of the required courses, an associate degree will qualify.

13.2(1) Any credential issued by the board on or after January 1, 2008, must be in compliance with all components of the AQB real property appraiser qualification criteria. It would not matter when an applicant completed education, examination and experience; if the credential is issued after January 1, 2008, the applicant must meet the requirements for all components of the new qualification criteria.

13.2(2) Applicants for the certified residential license must hold an associate degree, or higher, from an accredited college, community college or university, unless the requirements of 13.2(3) are satisfied.

13.2(3) In lieu of the associate degree, an applicant for the certified residential license shall successfully pass the following collegiate subject matter courses from an accredited college, community college, or university:

- a. English composition;
- b. Principles of economics (micro or macro);
- c. Finance;
- d. Algebra, geometry, or higher mathematics;
- e. Statistics;
- f. Computer science; and
- g. Business or real estate law.

Total credits are the total hours of equivalent college courses in lieu of an associate degree or 21 semester credit hours for the certified residential appraiser. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the examination showing its approval, the examination will be considered as credit for the college course.

13.2(4) In addition to the 21 semester hours, an applicant must complete 200 creditable class hours before taking the AQB-approved examination as follows:

CERTIFIED RESIDENTIAL APPRAISER
REQUIRED CORE CURRICULUM

All core courses must be AQB-approved to obtain credit.

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour USPAP course or equivalent	15 hours
Residential market analysis and highest and best use	15 hours
Residential appraiser site valuation and cost approach	15 hours
Residential sales comparison and income approaches	30 hours
Residential report writing and case studies	15 hours
Statistics, modeling and finance	15 hours
Advanced residential applications and case studies	15 hours
Appraisal subject matter electives	20 hours

13.2(5) The AQB-approved Certified Residential Real Property Appraiser Examination must be successfully completed. There is no alternative to successful completion.

13.2(6) All prelicense courses must be AQB-approved for a student to obtain credit toward the prelicense requirement. All distance education courses must include a written examination proctored by an official approved by the college or university, or by the sponsoring organization.

13.2(7) All certified residential appraisers must comply with the COMPETENCY RULE of USPAP. These rules are intended to implement Iowa Code section 543D.5.

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]

CHAPTER 14
CERTIFIED GENERAL APPRAISER
EDUCATION REQUIREMENTS

193F—14.1(543D) Existing credential holders. Existing credential holders in good standing shall be considered in compliance with current Appraiser Qualification Board criteria if they have passed an AQB-approved qualifying examination for that credential. This applies to reciprocity, temporary practice, renewals, and applications for the same credential in another jurisdiction. All credential holders must comply with ongoing requirements for continuing education and state renewal procedures.

193F—14.2(543D) Education requirements for certified general licensing. Following are the education requirements that an individual must meet to apply for a certified general license, effective January 1, 2008. The changes include increased education requirements, which are summarized as follows:

Category	Requirements Prior to 1/1/08	Requirements Effective 1/1/08	1/1/08 College-Level Course Requirements
Certified General	180 hours	300 hours	30 semester credit hours covering the following subject matter courses: English composition; microeconomics; macroeconomics; finance; algebra, geometry or higher mathematics; statistics; introduction to computers—word processing/spreadsheets; business or real estate law; and two elective courses in accounting, geography, ag-economics, business management, or real estate. In lieu of the required courses, a bachelor's degree will qualify.

14.2(1) Any credential issued by the board on or after January 1, 2008, must be in compliance with all components of the AQB real property appraiser qualification criteria. It would not matter when an applicant completed education, examination and experience; if the credential is issued after January 1, 2008, the applicant must meet the requirements for all components of the new criteria.

14.2(2) Applicants for the certified general license must hold a bachelor's degree, or higher, from an accredited college, community college or university, unless the requirements of 14.2(3) are satisfied.

14.2(3) In lieu of the bachelor's degree, an applicant for the certified general license shall successfully pass the following collegiate subject matter courses from an accredited college, community college, or university:

- a. English composition;
- b. Microeconomics;
- c. Macroeconomics;
- d. Finance;
- e. Algebra, geometry, or higher mathematics;
- f. Statistics;
- g. Computer science;
- h. Business or real estate law; and
- i. Two elective courses in accounting, geography, ag-economics, business management, or real estate.

Total hours of equivalent college courses in lieu of a bachelor's degree: 30 semester credit hours or its equivalent for the certified general appraiser. If an accredited college or university accepts the College-Level Examination Program (CLEP) examination(s) and issues a transcript for the examination showing its approval, the examination will be considered as credit for the college course.

14.2(4) In addition to the 30 semester hours, an applicant must complete 300 creditable class hours before taking the AQB-approved examination as follows:

CERTIFIED GENERAL APPRAISER
REQUIRED CORE CURRICULUM

All core courses must be AQB-approved to obtain credit.

Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour USPAP course or equivalent	15 hours
General appraiser market analysis and highest and best use	30 hours
Statistics, modeling and finance	15 hours
General appraiser sales comparison approach	30 hours
General appraiser site valuation and cost approach	30 hours
General appraiser income approach	60 hours
General appraiser report writing and case studies	30 hours
Appraisal subject matter electives	30 hours

14.2(5) All prelicense courses must be AQB-approved for a student to obtain credit toward the prelicense requirement. All distance education courses must include a written examination proctored by an official approved by the college or university, or by the sponsoring organization.

14.2(6) The AQB-approved Certified General Real Property Appraiser Examination must be successfully completed. There is no alternative to successful completion.

14.2(7) All certified general appraisers must comply with the COMPETENCY RULE of USPAP. These rules are intended to implement Iowa Code section 543D.5.

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

[Filed 8/9/07, Notice 6/20/07—published 8/29/07, effective 10/3/07]

CHAPTER 15
SUPERVISOR RESPONSIBILITIES

193F—15.1(543D) Description. The importance of the role of the supervisory appraiser places ethical and professional standards on those who serve in this capacity. The function of the supervisory appraiser is to help adequately prepare a trainee to demonstrate professional competence and work independently upon issuance of full licensure. The supervisor is considered an integral part of the training process, and supervision should be considered a full-time, hands-on responsibility. To this end, the board has promulgated the following best practices to clarify the board's intent for supervisory appraisers.

193F—15.2(543D) Supervisory appraiser responsibilities. Supervisory appraisers shall:

1. Ensure that the information presented in the appraisal report is accurate and dependable in order to provide a valid and credible report.
2. Adequately supervise a trainee in the data-gathering process to ensure that the trainee is correctly and properly collecting pertinent and factual data for analysis.
3. Ensure that the trainee is knowledgeable about the various sources from which to gather data and that the data collected is reliable. The trainee should be exposed to any sources of research that would be considered by one's peers in the marketplace including cost manuals, multiple listing services, public records and Internet study.
4. Teach the trainee to reason independently and formulate reasonable conclusions based upon the analysis of the information gathered.
5. Teach the basic routine of the appraisal process including a consistent and regular pattern of data gathering, analysis, and report writing.
6. Review and critique appraisal reports for accuracy, ease of reading, understanding and purpose, and ensure that all addenda are both relevant and pertinent.
7. Ensure that factual data is reliable and that analysis is both supported and documented. All necessary certification and limiting conditions should be up to date and applicable to the assignment.
8. Expose a trainee to as many different property types, report formats and value ranges as possible with the understanding that each time a new or unique assignment is introduced, there is a responsibility to instruct and educate the trainee to ensure competency.
9. Inspect each appraised property with the trainee until the supervisor determines the trainee is competent, in accordance with the COMPETENCY RULE of USPAP for the property type.
10. Bring the trainee appraiser to a professional level that enables the trainee to demonstrate competency independently.

193F—15.3(543D) Requirements for a supervisory appraiser. Effective January 1, 2006, a supervisory appraiser shall:

1. Have a minimum of two years of experience as a certified appraiser and be in good standing in all states and have had no disciplinary action that affects the supervisor's legal eligibility to engage in appraisal practice.
2. Have a maximum of three trainees and shall register with the board the name, office address and starting date of each trainee, as well as any termination dates (voluntary or involuntary).
3. Be responsible for the training and direct supervision of the associate appraiser by accepting full responsibility for the appraisal report by signing and certifying that the report is in compliance with USPAP.
4. Keep copies of associate appraiser reports for a period of at least five years or at least two years after final disposition of any judicial proceeding in which testimony was given, whichever period expires last.

193F—15.4(543D) Restrictions. The board may prohibit or further restrict an appraiser's authorization to act as a supervisory appraiser while the appraiser is under an unsatisfactory disciplinary order.

These rules are intended to implement Iowa Code section 543D.5.

[Filed 4/22/05, Notice 3/16/05—published 5/11/05, effective 6/15/05]

CHAPTER 16
ENFORCEMENT PROCEEDINGS AGAINST NONLICENSEES

193F—16.1(543D) Civil penalties against nonlicensees. The board may impose civil penalties by order against a person who is not certified or registered by the board pursuant to 2007 Iowa Acts, Senate File 137, based on the unlawful practices specified in 2007 Iowa Acts, Senate File 137, section 7.

For the purposes of this chapter, “nonlicensee” means a person who has never been certified or registered with the board, a person who surrendered a certificate or associate registration to the board, or a person whose certificate or associate registration has been revoked by the board.

193F—16.2(543D) Grounds for imposing civil penalties. Grounds for issuing an order requiring compliance with Iowa Code chapter 543D or imposing civil penalties up to \$1,000 for each violation include:

16.2(1) Use of the term “certified real estate appraiser” by a person who is not certified as a real estate appraiser by the board or in compliance with the temporary practice provisions of 193F—10.2(543D).

16.2(2) Use of the term “certified real estate appraiser” by a person in connection with or as part of the name or signature of a firm, partnership, corporation, or group, or in a manner that may be interpreted as referring to a firm, partnership, corporation, group, other business entity, or anyone other than an individual holder of a certificate issued by the board.

16.2(3) Use of the term “associate real estate appraiser” by a person who is not registered with the board as an associate real estate appraiser.

16.2(4) Falsely impersonating a certified real estate appraiser or associate real estate appraiser by using the certification or registration title, number or signature of a certified real estate appraiser or associate real estate appraiser, or by using the nonexistent certification or registration title, number or signature of a fictitious holder of a certificate or registration with the board.

16.2(5) Fraud, deceit, or deception, through act or omission, in connection with an application for certification or registration under Iowa Code chapter 543D, including the submission to the board of false information or documents, or the failure to disclose material information in connection with such an application for certification or registration.

16.2(6) Assisting a certified real estate appraiser in the development or reporting of an appraisal assignment that is required by Iowa Code chapter 543D, or by federal or state law, rule, or policy to be performed by a certified real estate appraiser, unless the person assisting the certified real estate appraiser meets one or more of the following conditions:

- a. The person is certified under this chapter.
- b. The person is registered as an associate real estate appraiser and is acting under the direct supervision of a certified real estate appraiser.
- c. The person is solely providing administrative services, such as taking photographs, preparing charts, or typing reports, and is not providing real estate appraisal assistance in developing the analysis, valuation, opinions, or conclusions associated with the appraisal assignment.
- d. The person is providing professional consultation that does not constitute real property appraisal assistance, such as the assistance of a professional engineer or certified public accountant.

16.2(7) Improperly influencing or attempting to improperly influence the development, reporting, result, or review of a real estate appraisal as provided in 2007 Iowa Acts, Senate File 137, section 7.

193F—16.3(543D) Investigations. The board is authorized by Iowa Code subsection 17A.13(1) and 2007 Iowa Acts, Senate File 137, section 7, to conduct such investigations as are needed to determine whether grounds exist to make application to the district court pursuant to 2007 Iowa Acts, Senate File 137, section 7, or to impose civil penalties against a person who is not certified or registered with the board. Such investigations shall conform to the procedures outlined in 193—Chapter 6 and 193F—Chapter 8. The board is authorized to issue subpoenas and to compel the testimony of witnesses in connection with such investigations, pursuant to 2007 Iowa Acts, Senate File 137, section

7. Complaint and investigatory files solely concerning persons who are not certified or registered by the board are not confidential except as provided in Iowa Code chapter 22.

193F—16.4(543D) Notice of intent to impose civil penalties.

16.4(1) The notice of the board's intent to issue an order to require compliance with 2007 Iowa Acts, Senate File 137, section 7, and to impose a civil penalty shall be served upon the nonlicensee by restricted certified mail, return receipt requested, or by personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the nonlicensee may accept service personally or through authorized counsel.

16.4(2) The notice shall include the following:

- a. A statement of the legal authority and jurisdiction under which the proposed civil penalty would be imposed.
- b. Reference to the particular sections of the statutes and rules involved.
- c. A short, plain statement of the alleged unlawful practices.
- d. The dollar amount of the proposed civil penalty and the nature of the intended order to require compliance with 2007 Iowa Acts, Senate File 137, section 7.
- e. Notice of the nonlicensee's right to a hearing and the time frame in which hearing must be requested.
- f. The address to which written request for hearing must be made.

193F—16.5(543D) Request for hearing.

16.5(1) Nonlicensees must request a hearing within 30 days of the date the notice is received or service is accepted. A request for hearing must be in writing and is deemed made on the date of the nonmetered United States Postal Service postmark or the date of personal delivery to the board office.

16.5(2) If a request for hearing is not timely made, as described in the notice, the board chairperson or the chairperson's designee may issue an order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

16.5(3) If a request for hearing is timely made, the board shall issue a notice of hearing and conduct a hearing in the same manner as applicable to disciplinary cases against licensees. Hearings involving nonlicensees are open to the public.

16.5(4) A nonlicensee may waive the right to hearing and all attendant rights and enter into a consent order imposing a civil penalty and requiring compliance with Iowa Code chapter 543D at any stage of the proceeding upon mutual consent of the board.

16.5(5) The notice of intent to issue an order and the order are public records available for inspection and copying in accordance with Iowa Code chapter 22. Copies may be published as provided in rule 193—7.30(17A,272C).

193F—16.6(543D) Factors to consider. Among the factors the board may consider when determining the amount of civil penalty to impose, if any, are the following:

1. The time elapsed since the unlawful practice occurred.
2. Evidence of reform or remedial actions.
3. Whether the violation is a repeat offense following a prior warning letter or other notice of the nature of the infraction.
4. Whether the violation involved an element of deception.
5. Whether the unlawful practice violated a prior order of the board, court order, cease and desist agreement, consent order, or similar document.
6. The clarity of the issue involved.
7. Whether the violation was willful and intentional.
8. Whether the nonlicensee acted in bad faith.
9. The extent to which the nonlicensee cooperated with the board.
10. The circumstances leading to the violation.

11. Whether the amount imposed will be a substantial economic deterrent to the violation.
12. The economic benefits gained by the nonlicensee as a result of the violation.
13. The severity of the violation and the risk of harm to the public.
14. The interest of the public.

193F—16.7(543D) Enforcement options. In addition or as an alternative to the administrative process described in these rules, the board may seek an injunction in district court, refer the matter for criminal prosecution, enter into a consent order, issue an informal cautionary letter, refer the matter to the attorney general, or refer the matter to the licensing entity with regulatory authority over the nonlicensee and jurisdiction to take action against the person's real estate-related license as provided in 2007 Iowa Acts, Senate File 137, section 7.

These rules are intended to implement Iowa Code chapter 17A and chapter 543D as amended by 2007 Iowa Acts, Senate File 137.

[Filed 7/13/07, Notice 5/23/07—published 8/1/07, effective 9/5/07]