

HUMAN SERVICES DEPARTMENT[441](cont'd)

“*County where the individual is located*” means the individual’s county of residence as defined in Iowa Code section ~~331.394~~ 225C.61, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.

“*Mental health and disability services region*” means the same as defined in Iowa Code section ~~331.389~~ 225C.56.

ITEM 26. Amend subrule 25.56(2) as follows:

25.56(2) As defined in rule ~~441—25.41(331)~~ 441—25.41(225C), the data to be submitted are as follows:

- a. No change.
- b. Demographic information, including the individual’s date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the American Psychiatric Association through September 2023 incorporated herein).
- c. No change.

ARC 7931C

REAL ESTATE COMMISSION[193E]

Notice of Intended Action

Proposing rulemaking related to brokerage agreements, buyer’s representative agreements, and compensation and providing an opportunity for public comment

The Real Estate Commission hereby proposes to amend Chapter 7, “Offices and Management,” Chapter 11, “Brokerage Agreements and Listings,” and Chapter 12, “Disclosure of Relationships,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 543B.9.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapters 17A, 272C and 543B.

Purpose and Summary

The proposed rulemaking updates practice standards, including brokerage agreements, buyer’s representation agreements, and compensation, that were enacted by 2024 Iowa Acts, Senate File 2291. These amendments will protect the public while also providing direction to licensees relating to national real estate compensation shifts.

The proposed amendments were approved by the Commission on April 4, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department of Inspections, Appeals, and Licensing (DIAL) for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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Public Comment

Any interested person may submit written comments concerning this proposed rulemaking. Written comments in response to this rulemaking must be received by DIAL no later than 4:30 p.m. on May 21, 2024. Comments should be directed to:

Lori SchraderBachar
Iowa Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.725.9030
Email: lori.schraderbachar@iowa.gov

Public Hearing

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

May 21, 2024
3 p.m.

Ledges Conference Room
6200 Park Avenue
Des Moines, Iowa
Via video/conference call:
us02web.zoom.us/j/85977907466?pwd=c0l6cER2OFJtS1MyeDhINHUwMkMwdz09

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact DIAL and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Amend subrule 7.15(1) as follows:

7.15(1) A ~~customer's agent~~ client's broker seeking compensation from ~~the listing~~ another broker ~~cannot prepare an offer to purchase on the property without first obtaining~~ will obtain authorization and agreement from the ~~listing cooperating broker~~ prior to closing of the real estate transaction.

ITEM 2. Rescind subrule **7.15(2)**.

ITEM 3. Renumber subrules **7.15(3)** to **7.15(5)** as **7.15(2)** to **7.15(4)**.

ITEM 4. Rescind subrules **11.1(5)** and **11.1(6)**.

ITEM 5. Amend paragraph **11.3(1)“a”** as follows:

a. All ~~listing contracts and all brokerage agency contracts~~ agreements contain a statement disclosing the brokerage policy on cooperating with and compensating other brokerages ~~whether the brokerage is acting as subagent~~ or the other parties' agent in the sale, lease, rental, or purchase of real estate, including whether the brokerage intends to share the compensation with other brokerages and any other method for negotiating compensation for another party's broker. Such disclosure serves to inform the client of any policy that would limit the participation of any other brokerage; and

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ITEM 6. Amend paragraph **11.3(6)“c”** as follows:

c. A broker may be compensated by more than one party for services in a transaction ~~if the parties have consented in writing to such multiple payments prior to entering into a contract to buy, sell, lease, or exchange.~~

ITEM 7. Adopt the following new paragraph **11.3(6)“k”**:

k. The seller or landlord may authorize a portion of the proceeds of the sale of real property or other negotiated term of an agreement or contract to pay compensation to other brokers who are part of the same real estate transaction as the seller or landlord, including a buyer's or tenant's broker solely representing the buyer or tenant. The payment of compensation may be a direct payment from the seller or landlord to the other brokers who are part of the same real estate transaction as the seller or landlord, including a buyer's or tenant's broker solely representing the buyer or tenant.

ITEM 8. Rescind subrule 11.3(9) and adopt the following new subrule in lieu thereof:

11.3(9) The seller or landlord may, in the brokerage agreement, authorize the seller's or landlord's broker to disburse part of the broker's compensation to other brokers, including a buyer's or tenant's broker solely representing the buyer or tenant.

ITEM 9. Adopt the following new subrule 11.3(10):

11.3(10) Nothing contained in this rule shall obligate any buyer or tenant or seller or landlord to pay compensation to a licensee representing the buyer or tenant or seller or landlord in a real estate transaction unless the buyer or tenant or seller or landlord has entered into a written brokerage agreement with the broker specifying the compensation terms and conditions, in accordance with Iowa real estate license law and commission rules.

ITEM 10. Amend subrule 11.6(2) as follows:

11.6(2) In a ~~listing contract~~ brokerage agreement, the broker is principal party to the contract. The broker may, with proper disclosure, pay a portion of the commission earned to an unlicensed seller, ~~or landlord, buyer, or tenant~~ that is a principal party to the ~~listing contract~~ brokerage agreement. This will be deemed a reduction in the amount of the earned commission.

ITEM 11. Rescind subrules **12.2(5)** and **12.2(6)**.

ITEM 12. Renumber subrules **12.2(7)** to **12.2(19)** as **12.2(5)** to **12.2(17)**.

ITEM 13. Amend renumbered subrule 12.2(12) as follows:

12.2(12) The licensee retains a copy of the disclosure form signed by the prospective buyer, seller, landlord or tenant, or the documentation and copies as obligated in subrule ~~12.2(12)~~ 12.2(10) as follows:

a. and *b.* No change.