

REGISTER



South Dakota Legislative Research Council

Volume 35

Monday, 8:00 a.m., April 13, 2009

NOTICES OF PROPOSED RULES: (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

Department of Revenue and Regulation:

Division of Insurance: (April 7, 2009) intends to adopt rules to establish a special state continuation election of continuation for individuals that were eligible prior to the enactment of the American Recovery and Reinvestment Act. The general authority for these rules, as cited by the division, is SDCL 58-18-79.

A public hearing will be held in the Main Floor Conference Room, Anderson Building, Pierre, South Dakota, on May 6, 2009, at 10:00 a.m. Paper copies of the proposed rules may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by May 5, 2009, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing Melissa.Klemann@state.sd.us. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3563 at least 48 hours before the hearing.

Department of Revenue and Regulation:

Division of Insurance: (April 7, 2009) has filed a rule to change a reference to reflect the new

lifetime benefit maximum amount of two million dollars. The general authority for this rule, as cited by the division, is SDCL 58-17-124.

A public hearing will be held in the Governor's Large Conference Room, Capitol Building, Pierre, South Dakota, on May 7, 2009, at 10:00 a.m. Paper copies of the proposed rule may be obtained without charge from and written comments sent to the Department of Revenue and Regulation, Division of Insurance, Administrative Rules, 445 E. Capitol Avenue, Pierre, South Dakota 57501-3185. Material sent by mail must reach the Division of Insurance by May 6, 2009, to be considered. The text of the proposed rules will be posted on the Department of Revenue and Regulation's website at <http://www.state.sd.us/drr2/reg/insurance/Legal/hearing.htm>. The rules may also be obtained as a Microsoft Word attachment by emailing Melissa.Klemann@state.sd.us. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3563 at least 48 hours before the hearing.

Department of Revenue and Regulation: Real Estate Commission:

(April 8, 2009) has filed rules to permit electronic filings of petitions for promulgation of declaratory ruling or rule, include a broker in the registration process for a business corporation or limited liability company, make provisions for commission splits paid out-of-country, prohibit the reproduction of a license, require nonresident licensees to provide certificates of licensure at time of application for licensure and when renewing a South Dakota license, require a

South Dakota resident licensed as a salesperson by examination in another state to meet certain education and examination requirements, require a nonresident salesperson licensed in South Dakota who establishes residency in this state to meet certain education requirements, correct gender specific language, rename Course I, II and III and revise course content requirements, require an instructor seeking approval to offer prelicensing education to complete certain course work, allow electronic filing of a complaint and response to complaint, distinguish the type of license to be held when appraising real property, define postlicensing education and establish requirements thereof, eliminate fees of certain prelicensing courses, require out-of-state courses to meet certain requirements, repeal the requirement of notice given to students at beginning of continuing education course, and prohibit independent study courses from qualifying for postlicensing education. The general authority for these rules, as cited by the commission, is 36-21A-30.1, 36-21A-31, 36-21A-34, 36-21A-46.1, 36-21A-54, 36-21A-63, 36-21A-89, 36-21A-90, 43-15B-6.

A public hearing will be held in Meeting Room B of the Holiday Inn Express, 110 East Stanley in Ft. Pierre, South Dakota, at 4:00 p.m. CDT on May 6, 2009. A copy of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Real Estate Commission, 221 W. Capitol, Suite 101, Pierre, SD 57501. Written comments must be received on or before May 4, 2009, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3600 at least 48 hours before the hearing.

Department of Revenue and Regulation: Banking Commission: (April 9, 2009) has filed rules to restructure the tiered fee schedule for the semiannual examination fee paid by state chartered banks, to implement additional supervision fees for banks in non-traditional business lines and banks operating under

enforcement actions and to amend the additional examination fee provided, and to increase the initial license and renewal fees for entities licensed to lend money in South Dakota pursuant to chapter 54-4. The general authority for these rules, as cited by the commission, is SDCL 51A-2-13, 51A-2-36, 54-4-40, 54-4-45.

A public hearing will be held in Room 412 of the State Capitol, 500 E. Capitol Avenue, Pierre, South Dakota on April 30, 2009, at 10:00 a.m. Copies of the proposed rules may be obtained from and written comments sent to the Division of Banking, 217 ½ West Missouri Avenue, Pierre, South Dakota 57501, or by emailing Lynda.Fratzke@state.sd.us. Copies of the rules are also available at the division's website: <http://www.state.sd.us/banking>. Material sent by mail must reach the division by April 30, 2009, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the department can make arrangements are asked to call (605) 773-3421 at least 48 hours before the hearing.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

DEPARTMENT OF SOCIAL SERVICES:
67:13:01:17.01.

History-Notice: 35 SDR 233, April 6, 2009
Hearing: N/A
Filed: April 8, 2009
Effective: April 8, 2009

Executive Appointments:

Timothy S. McIntyre, Webster, was appointed on April 7, 2009, to the **State Electrical Commission**, to replace Linda Wittrock, effective April 7, 2009, and shall continue until April 14, 2012.

Jesse J. Smith, Sioux Falls, was reappointed on April 7, 2009, to the **State Electrical Commission**, effective April 15, 2009, and shall

continue until April 14, 2012.

Cam P. Becker, Marion, was reappointed on April 7, 2009, to the **State Electrical Commission**, effective April 15, 2009, and shall continue until April 14, 2012.

Leonard Neugebauer, Sioux Falls, was reappointed on April 7, 2009, to the **Board of Technical Professions**, effective April 15, 2009, and shall continue until April 14, 2012.

Jeffery A. Hazard, Sioux Falls, was reappointed on April 7, 2009, to the **Board of Technical Professions**, effective April 15, 2009, and shall continue until April 14, 2012.

Jim Berreth, Artas, was reappointed on April 7, 2009, to the **State Plumbing Commission**, effective April 15, 2009, and shall continue until April 14, 2012.

Lois A. Porch, Philip, was reappointed on April 7, 2009, to the **Cosmetology Commission**, effective April 15, 2009, and shall continue until April 14, 2012.

Ila Davis, Mina, was reappointed on April 7, 2009, to the **Cosmetology Commission**, effective April 15, 2009, and shall continue until April 14, 2012.

Nora Slykhuis, Custer, was reappointed on April 7, 2009, to the **Cosmetology Commission**, effective April 15, 2009, and shall continue until April 14, 2012.

George Nikolas, Aberdeen, was reappointed on April 8, 2009, to the **South Dakota Railroad Authority**, effective immediately and shall continue until January 19, 2013.

Rodney Fouberg, Aberdeen, was reappointed on April 9, 2009, to the **Transportation Commission**, effective April 19, 2009, and shall continue until April 18, 2013.

James C. Spies, Watertown, was reappointed on April 9, 2009, to the **Transportation Commission**, effective April 19, 2009, and shall continue until April 18, 2013.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

REMINDER OF HEARINGS SCHEDULED

4-14-2009	Agriculture: Weed and Pest Control Commission	Amend a rule to add Sulfur cinquefoil to the local noxious weed and declared pest list; 35 SDR 223.
4-16-2009	Labor: Electrical Commission	Amend rules to require standards for attaining a 501(d) license and for attaining levels of licensure above 501(d); address fee administration for 501(d) active and inactive licensure; document exceptions to the National Electrical Code as approved by the South Dakota Electrical commission; address fee administration for maintenance inspections; address fee administration for wiring permits;

		and eliminate the requirement for a wiring permit, inspection fee or inspection for modular homes or modular structures exported out of South Dakota; 35 SDR 227.
4-20-2009	Revenue and Regulation: Division of Insurance	Amend rules to repeal duplicative authority and to define premium for premium tax reporting purposes; 35 SDR 227.
4-30-2009	Revenue and Regulation: Banking Commission	Amend rules to restructure the tiered fee schedule for the semiannual examination fee paid by state chartered banks, to implement additional supervision fees for banks in non-traditional business lines and banks operating under enforcement actions and to amend the additional examination fee provided, and to increase the initial license and renewal fees for entities licensed to lend money in South Dakota pursuant to chapter 54-4; 35 SDR 238
5-6-2009	Revenue and Regulation: Division of Insurance	Adopt rules to establish a special state continuation election of continuation for individuals that were eligible prior to the enactment of the American Recovery and Reinvestment Act; 35 SDR 237
5-6-2009	Revenue and Regulation: Real Estate Commission	Amend rules to permit electronic filings of petitions for promulgation of declaratory ruling or rule, include a broker in the registration process for a business corporation or limited liability company, make provisions for commission splits paid out-of-country, prohibit the reproduction of a license, require nonresident licensees to provide certificates of licensure at time of application for licensure and when renewing a South Dakota license, require a South Dakota resident licensed as a salesperson by examination in another state to meet certain education and examination requirements, require a nonresident salesperson licensed in South Dakota who establishes residency in this state to meet certain education requirements, correct gender specific language, rename Course I, II and III and revise course content requirements, require an instructor seeking approval to offer prelicensing education to complete certain course work, allow electronic filing of a complaint and response to complaint, distinguish the type of license to be held when appraising real property, define postlicensing education and establish requirements thereof,

		eliminate fees of certain prelicensing courses, require out-of-state courses to meet certain requirements, repeal the requirement of notice given to students at beginning of continuing education course, and prohibit independent study courses from qualifying for postlicensing education; 35 SDR 237
5-7-2009	Revenue and Regulation: Division of Insurance	Amend a rule to change a reference to reflect the new lifetime benefit maximum amount of two million dollars; 35 SDR 237
5-7-2009	Secretary of State: Board of Elections	Amend rules to clarify the address which the voter registration address verification notice is mailed to and include information on how to handle the notice if that person is no longer residing at that address; amend language in the notice of election for special district formation to clarify when the trustee election will be held; amend the municipal election ballot to include a list of the types of municipal governing boards; amend the certificate of nomination to fill vacancy form to include the principal residence address of the candidate; amend the approval of automatic tabulating system requirements for certification; amend the instructions to absentee voters to include instructions to not return the absentee ballot to the polling place; amend the type of seal used for sealing a ballot box; require the use of paper seals on the ballot box; amend the certification by precinct election board to include certification language for election boards which use electronic pollbooks; remove the date of the election from the official stamp for ballots; modify absentee ballot envelopes; repeal color requirement for special district ballots; add ballot format for special district formation elections; add ballot for school district reorganization elections; add ballot format for sanitary district elections; add petition form for establishing or eliminating school board representation areas; add petition form for referring the discontinuance of an attendance center; and put security measures in place for the use of electronic pollbook; 35 SDR 233.

RULES REVIEW COMMITTEE MEETINGS

The next meeting of the Interim Rules Review Committee will be held Tuesday, April 21, 2009, in Room 413, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2009 interim: May 12, June 9, July 28, September 1, October 6, November 18, and December 15.

Note: An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.