

**IOWA FINANCE AUTHORITY[265]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 16.5(1)“m,” 16.5(1)“r,” 16.54(5), and 17A.3(1)“b,” the Iowa Finance Authority proposes to amend Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to clarify and simplify the rules governing the Military Service Member Home Ownership Assistance Program.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on September 19, 2017. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to (515)725-4901 or e-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

These amendments are intended to implement Iowa Code section 16.54.

The following amendments are proposed.

ITEM 1. Amend rule 265—27.2(16) as follows:

**265—27.2(16) Definitions.** As used in this chapter, unless the context otherwise requires:

“*Closing agent*” means the attorney, real estate firm, or closing company that is closing the ~~cash sale~~ qualifying purchase transaction and that prepares the cash sale settlement statement.

“*Eligible service member*” means a person purchasing his or her primary residence in the state of Iowa who, at the time of application for a grant under the program, (1) is or was, if discharged under honorable conditions, a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

“*Facilitating lender*” means a lender that is not a participating lender but that is approved by the authority to make loans under the military home ownership assistance program pursuant to Iowa Code section 16.54(5) and subrule 27.3(7).

“*Home ownership assistance*” means the one-time assistance of up to \$5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home. ~~This assistance does not require repayment except pursuant to rule 265—27.4(16).~~

“*Participating lender*” means a lender approved for participation in one or more of the authority’s first mortgage financing home buyer programs. ~~Eligible home buyer program participating lenders are those that make available the authority’s home buyer program to customers in the same manner as other mortgage loan programs.~~ The authority maintains a list of participating lenders on its Web site: [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

*“Program” or “military home ownership assistance program” or “MHOA” means the military service member home ownership assistance program authorized by Iowa Code section 16.54 as amended by 2010 Iowa Acts, House File 2148.*

*“Qualified home” means a home that is located in the state of Iowa; that is purchased by an eligible service member as the service member’s primary residence, that will be immediately occupied by the service member or spouse, and that falls an eligible service member purchases, occupies, and uses as the service member’s primary residence. The home must fall into one of the following categories:*

1. Single-family residence, including “stick-built” homes, modular homes, or manufactured homes, provided the home is attached to a permanent foundation and is taxed as real estate;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as ~~his or her~~ the service member’s primary residence.

*The following categories of property shall not constitute a qualified home:*

- ~~Multifamily properties of five units or more;~~
- ~~Commercial or nonresidential property;~~
- ~~Farmland or other investment property;~~
- ~~Recreational vehicles, mobile homes, or trailers that are not both attached to a permanent foundation and taxed as real estate.~~

*“Qualified mortgage” means a permanent mortgage loan made pursuant to one of the authority’s home buyer mortgage programs unless the lender offers a lower annual percentage interest rate (APR), fixed rate, fully amortizing first mortgage meeting the requirements of paragraph 27.3(2)“a.” financing that is more financially advantageous for the service member. ~~The authority’s home buyer mortgage program information may be obtained on the authority’s Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).~~*

*“Status documentation” means written documentation of verifying that the applicant’s status with the armed forces of the United States, typically applicant is an eligible service member. This documentation may include, but is not limited to, a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant’s most recent ~~four months of~~ leave and earnings statements representing 90 days of active duty.*

*“Title guaranty certificate” means the certificate issued by the Iowa title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both. ~~Information about title guaranty may be obtained at the title guaranty Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).~~*

ITEM 2. Amend rule 265—27.3(16) as follows:

**265—27.3(16) Application procedure and determination of eligibility.**

**27.3(1) Prior approval.** Whether the purchase of a qualified home is by mortgage financing or cash, prior approval of the assistance by the authority is required. Approval of the request will ~~entail application and include~~ supporting document review by the authority and a determination of the service member’s eligibility by the Iowa department of veterans affairs. ~~A minimum of two weeks should be allowed for response from the authority.~~

**27.3(2) Financed home purchases.**

*a.* In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating or facilitating lender ~~or a lender approved to facilitate MHOA assistance.~~ The If the service member qualifies for one of the authority’s home buyer mortgage programs, the mortgage financing provided shall be a qualified mortgage loan made pursuant to one of the authority’s home buyer mortgage programs if the service member qualifies for it; provided, however, that notwithstanding the foregoing, a service member may utilize a mortgage loan that is not made pursuant to one of the authority’s home buyer mortgage programs if: Service members who are not eligible for one of the authority’s home buyer mortgage programs and are not purchasing on a cash basis may use any permanent financing available to them.

~~(1) Such mortgage loan is offered by either:~~

1. ~~A lender that participates in one of the authority's first mortgage financing programs, or~~
  2. ~~A lender approved pursuant to Iowa Code section 16.54(5); and~~
- (2) ~~The authority determines that the offered financing would be economically feasible and financially advantageous for the eligible service member. The authority shall presume an offer of financing to be financially advantageous for the eligible service member if the offered financing has an annual percentage rate that is at least 25 basis points lower than the most nearly equivalent loan offered by participating lenders on the same date pursuant to one of the authority's home buyer mortgage programs.~~

If the service member does not qualify for one of the authority's home buyer mortgage programs, another permanent, fixed-rate, fully amortizing mortgage loan may be used.

b. To apply for the military assistance, the eligible service member shall provide the participating or facilitating lender with all of the following:

- (1) ~~Status status documentation; and all necessary program documents.~~
- (2) ~~A bona fide purchase agreement with any addenda or attachments for a primary residence;~~
- (3) ~~A complete loan application on Form 1003;~~
- (4) ~~A copy of a government-issued photo identification card or a lender certification that a government-issued photo identification card has been provided;~~
- (5) ~~A copy of the subject appraisal; and~~
- (6) ~~Documentation that demonstrates the home will be occupied as a primary residence.~~

e. ~~The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority's mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures.~~

~~d. c.~~ Once ~~it~~ the lender has received all of the information required by this subrule, the lender shall transmit copies of the ~~loan application, the status documentation, the purchase agreement, the photo ID, the appraisal, any necessary supporting documentation, and the MHOA application~~ to the authority.

**27.3(3) Cash home purchases.** In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, ~~a completed MHOA application form obtained from the authority, and a bona fide~~ the purchase agreement with any addenda or attachments for a primary residence, and a title guaranty commitment.

**27.3(4) Referral of status documentation to Iowa department of veterans affairs.** ~~Upon receipt of the completed MHOA application, the~~ The authority shall submit the status documentation, upon receipt, to the Iowa department of veterans affairs for verification that the applicant's duty status is consistent with the definition of "applicant is an eligible service member." The Iowa department of veterans affairs shall be the final authority as to whether an applicant's duty status is consistent with the definition of "applicant is an eligible service member."

**27.3(5) Notice of MHOA approval.** Upon confirmation of the applicant's service record eligibility by the Iowa department of veterans affairs and the authority, ~~provided that the information submitted on the application form complies with the requirements of this chapter,~~ the authority shall notify the lender, or eligible service member in the case of a cash purchase, that the MHOA application has been approved.

**27.3(6) Gaps in funding.** In cases where the military assistance funds are unavailable during the home purchase process, MHOA requests for approval shall may be placed on a waiting list. When funds are again available, ~~provided that all other criteria have been met, including issuance of the title guaranty certificate, and where the home purchase closed without the benefit of military assistance funds being applied toward closing costs or down payment,~~ the proceeds of the assistance shall be paid (1) directly to the participating lender/~~servicing~~ lender or servicing lender to be applied toward the qualified mortgage loan's principal balance, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. ~~Additional documentation required shall include a statement executed by~~ The authority will notify the applicant authorizing that the assistance to will be applied to the principal balance.

**27.3(7) Approval process for facilitating lender status.** Pursuant to Iowa Code section 16.54(5), an Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an

application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. ~~The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller. Any approval granted pursuant hereto shall be contingent upon the approved lender's offering eligible service members a lower annual percentage rate than the annual percentage rates available at such time from lenders that participate in the authority's first mortgage financing programs.~~

ITEM 3. Amend rule 265—27.4(16) as follows:

~~**265—27.4(16) MHOA award.** Assistance awarded hereunder shall be up to \$5,000 toward the purchase of a qualified home and may be used for down payment or for closing costs, or for both. Assistance funds must be applied to the purchase of a qualified home and, in the case of mortgage financing, the mortgage must be a qualified mortgage. Any assistance proceeds which are not used for down payment or closing costs toward the purchase of a qualified home which is financed by a mortgage or cash purchase transaction must be returned to the authority.~~

~~**27.4(1) MHOA reimbursement.** The participating lender or cash payment home buyer shall advance funds at closing in an amount equal to the amount of the assistance on behalf of the eligible service member to be applied toward closing costs or the down payment. The After closing, the lender or cash payment home buyer, as applicable, shall, within 30 days of closing, submit to the authority a copy of the copies of the following documents: an executed HUD-1 Settlement Statement (or, if the transaction is a cash purchase, the eligible service member may use the settlement statement certified by a closing agent and the eligible service member), a copy of settlement statement, the deed conveying title to the qualified home, a copy of a title guaranty certificate issued for the qualified home commitment, and the military grant agreement and certification (form obtained from the authority) for reimbursement for the amount of the assistance. In the event the mortgage financing is not made pursuant to one of the authority's home buyer programs, reimbursement documentation shall include a certified copy of the promissory note, and mortgage, and final truth in lending disclosure. After closing, for cash home purchasers, the eligible service member shall submit to the authority a copy of the executed settlement statement, the deed conveying title and the executed title guaranty certificate.~~

~~**27.4(2) MHOA assistance restrictions and limitations.** All assistance under the program is subject to funding availability. Assistance will be awarded in the order in which completed MHOA applications are received all required documentation is received and approved by the authority. Assistance awarded pursuant to the program is personal to its recipient and may not be assigned. Only one award of assistance shall be awarded per home purchase. If both homeowners are eligible service members, only one may use the MHOA per home purchase. If another home is purchased at a later date, the other eligible service member may use the MHOA on the second home if the program exists and funds are available. An eligible service member shall receive only one award under the program. While program funds are available, the award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.~~

ITEM 4. Rescind rule 265—27.5(16) as follows:

~~**265—27.5(16) Income, purchase price and qualified mortgage.** There are no income or purchase price limits under the program except for eligible service members purchasing with mortgage financing~~

~~under one of the authority's home buyer programs. Service members who are not eligible for one of the authority's home buyer mortgage programs and are not purchasing on a cash basis must use other permanent mortgages made by the lender. Service members may also, if eligible, use other subsidy funds from the authority as allowed by one or more of the authority's programs, grant fund assistance available through other public agencies, nonprofit organizations, or the service member's employer, or any forgivable, "soft second" lien subsidy. Information about the authority's home buyer programs or how to contact a participating lender may be obtained on the authority's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).~~