

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

**Rule making related to manufactured housing program fund**

The Iowa Finance Authority hereby adopts new Chapter 45, “Manufactured Housing Program Fund,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 16.5.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2018 Iowa Acts, House File 2480, section 1 (Iowa Code section 16.45).

*Purpose and Summary*

This rule making adopts a new chapter of rules to implement the Manufactured Housing Program Fund, as required by Iowa Code section 16.45.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 29, 2018, as **ARC 3973C**. Comments were received from lenders that are not depository institutions and that are seeking a way to participate in the program. Comments were also received from Iowa Legal Aid requesting changes to protect low-income Iowans from the consequences of the termination of lot leases.

In response to the public comment received, changes from the Notice were made to allow nondepository lenders to participate in conjunction with financial institutions that are depository institutions. Also, references to 2018 Iowa Acts have been replaced with references to the Iowa Code.

*Adoption of Rule Making*

This rule making was adopted by the Authority on November 7, 2018.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

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

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making 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).

*Effective Date*

This rule making will become effective on January 9, 2019.

The following rule-making action is adopted:

Adopt the following **new** 265—Chapter 45:

CHAPTER 45  
MANUFACTURED HOUSING  
PROGRAM FUND

**265—45.1(16) Purpose.** The purpose of these rules is to allow the authority to allocate funds to financial institutions or lenders to finance the purchase by individuals of manufactured homes that are in compliance with all laws, rules, and standards that are applicable to manufactured homes. The fund is designed exclusively for manufactured homes sited on leased land located in the state of Iowa.

**265—45.2(16) Definitions.**

“*Authority*” means the Iowa finance authority.

“*Borrower*” means one or more individuals borrowing or seeking to borrow money for the purchase of a manufactured home.

“*Financial institution*” means a financial institution as defined in Iowa Code section 12C.1 that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Fund*” means the manufactured housing program fund created pursuant to Iowa Code section 16.45.

“*Interlender loan*” means the lending of funds by a financial institution to a lender, which funds are, in turn, to be loaned by the lender to a borrower to finance the purchase of a manufactured home.

“*Lender*” means a lender as defined in Iowa Code section 537.1301 that is licensed by the banking division of the department of commerce and that has not been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

“*Manufactured home*” or “*manufactured housing*” means the same as defined in Iowa Code section 435.1.

“*Mortgage loan*” means a loan from a financial institution or lender to a borrower to finance the purchase of a manufactured home.

“*Program*” means the manufactured housing program.

“*Revolving funds*” means the funds created by Iowa Code sections 16.46 through 16.49.

**265—45.3(16) Sources of funds.**

**45.3(1) Authorized transfers.** In addition to any moneys that may be appropriated to the fund, the authority is authorized by Iowa Code section 16.45 to transfer for deposit into the fund for any fiscal year any unencumbered and unobligated moneys in the revolving funds from the prior fiscal year. However, the maximum amount of moneys that may be so transferred for any fiscal year may not exceed the lesser of \$1,000,000 or an amount equal to the total amount of any unencumbered and unobligated moneys in the revolving funds available for transfer from the previous fiscal year reduced by \$1,000,000.

**45.3(2) Recapture and repayments—nonreversion.** Pursuant to Iowa Code section 16.45, recapture of awards and other repayments to the fund shall be deposited into the fund and are appropriated to the authority to be used for the program. Notwithstanding Iowa Code section 8.33, unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year shall not revert to any other fund but shall be available for expenditure in subsequent years. However, any unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year that were transferred to the fund as described in subrule 45.3(1) shall revert to the revolving fund from which the transfer was made. Notwithstanding Iowa Code section 12C.7(2), interest or earnings on moneys in the fund or appropriated to the fund shall be credited to the fund.

**265—45.4(16) Program overview.** The program is established as a means of facilitating affordable financing for the purchase of eligible manufactured homes to be sited on leased land located in the state of Iowa. By providing capital at a low interest rate in the form of linked deposits to financial institutions and lenders, the program is intended to enable financial institutions and lenders, in turn, to offer lower interest rate mortgage loans to borrowers or to enable financial institutions to offer interlender loans to lenders, the proceeds of which are, in turn, to be loaned to borrowers at low interest rates to finance the purchase of manufactured homes. The authority's role is strictly that of a depositor, not a lender, loan guarantor, or loan participant.

**265—45.5(16) Eligible financing.**

**45.5(1) Lender participation agreement.** Linked deposits shall be made pursuant to a lender participation agreement to be created by the authority. If the mortgage loan is to be made by a financial institution, the lender participation agreement shall be between the authority and the financial institution. If the mortgage loan is to be made by a lender, the lender participation agreement shall be between the authority, the lender, and a financial institution.

**45.5(2) Eligible loans.** To be eligible for a linked deposit under the program, a mortgage loan shall meet all of the following requirements:

- a. The mortgage loan must be for the purchase of a manufactured home as the borrower's primary residence; refinancing is not eligible for the program;
- b. The manufactured home must be sited on leased land located in the state of Iowa;
- c. The term of the mortgage loan shall not exceed 30 years;
- d. The mortgage loan shall be fully amortized;
- e. The terms of the mortgage loan shall contain no prepayment penalties;
- f. The interest rate payable on the mortgage loan shall not exceed 9 percent APR;
- g. Fees charged by the financial institution or lender to cover its costs of originating the mortgage loan (closing fees, origination fees, etc.) shall, in the aggregate, not exceed 1 percent of the principal mortgage loan amount;
- h. Closing agent/settlement fees paid to third-party closers, if any, shall not exceed \$500;
- i. Customary and reasonable closing costs shall be allowed; and
- j. The financial institution or lender shall comply with all applicable fair lending laws and regulations.

**265—45.6(16) Linked deposits.** The process to create a linked deposit shall be as follows:

**45.6(1)** Once a financial institution or lender has received a completed loan application from a borrower, the financial institution or lender shall notify the authority via a linked deposit reservation request. The reservation request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion. The authority shall review the reservation request; if the reservation request is approved, the authority shall tentatively reserve an amount in or available to the fund for up to 60 days for a linked deposit for the mortgage loan that was the subject of the request. No reservation shall be made if the requested mortgage loan amount exceeds the amount(s) in and available to the fund. The reservation shall be terminated if the mortgage loan does not close within the 60-day period. If the reservation request is not approved, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

**45.6(2)** The financial institution or lender that originated the mortgage loan shall review the borrower's mortgage loan application, applying ordinary manufactured housing lending underwriting criteria. If the loan application is approved by the financial institution or lender, the financial institution or lender shall submit a request to the authority for a linked deposit. The request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion.

**45.6(3)** Upon receipt of a linked deposit request, the authority shall review the information provided and make a determination as to whether the mortgage loan is eligible under the program's criteria. If

necessary, the authority may request additional information. If the mortgage loan is determined eligible, the authority shall, if necessary to make the linked deposit, transfer moneys from one or more of the revolving funds, at the authority's discretion, into the fund to ensure there is a sufficient amount available in the fund to make the linked deposit. The authority shall then deposit with the financial institution an amount equal to the principal amount of the mortgage loan via automated clearing house (ACH) money transfer. The linked deposit shall not be security for the mortgage loan or for the interlender loan, if any, nor shall it be a loan guarantee. The lender or financial institution making the mortgage loan shall bear all financial risk for the mortgage loan. The financial institution shall bear all financial risk for any interlender loan. If the mortgage loan is determined ineligible, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

**45.6(4)** The authority shall receive monthly bank statements for the linked deposit account.

**45.6(5)** The moneys in the linked deposit account shall remain in the account for the duration of the mortgage loan. Annually, as of June 30, the financial institution or lender that originated the mortgage loan shall notify the authority of the amount of principal that has been repaid on the mortgage loan during the previous 12 months. The authority shall then withdraw from the linked deposit account an amount equal to the principal that was repaid on the mortgage loan during the previous year so that the amount of the linked deposit equals the outstanding principal balance of the mortgage loan.

**45.6(6)** If a financial institution has more than one mortgage loan in the program, the linked deposits for those mortgage loans may be maintained in a single account.

**45.6(7)** The linked deposit for a mortgage loan shall be withdrawn in full if the mortgage loan is paid off, if the manufactured home purchased with the mortgage loan proceeds is destroyed, or if the borrower defaults on the mortgage loan.

**45.6(8)** The linked deposit account shall bear interest at a rate of not less than 1 percent per annum.

**265—45.7(16) Limits on linked deposits.** In any state of Iowa fiscal year, the authority shall not deposit more than 50 percent of the moneys in or available to the fund with any one financial institution pursuant to the program; provided, however, that after the first six months of such fiscal year, the authority may make a linked deposit with any participating financial institution regardless of any amounts previously deposited with such financial institution.

**265—45.8(16) Availability of moneys for linked deposits.** The obligation of the authority to deposit funds into a linked deposit account shall be subject to the availability of moneys either in the fund or transferrable to the fund from the sources set forth in Iowa Code section 16.45, under the limitations set forth in that section. The authority shall maintain a running total of the unreserved amounts in and available to the fund on the authority's website.

These rules are intended to implement Iowa Code section 16.45.

[Filed 11/13/18, effective 1/9/19]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/5/18.