

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

**Rule making related to disaster recovery housing assistance**

The Iowa Finance Authority hereby rescinds Chapter 29, “Jump-Start Housing Assistance Program,” and adopts a new Chapter 29, “Disaster Recovery Housing Assistance,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 16.5 and 16.57D.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 16.57B and 16.57C as enacted by 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

The purpose of this rule making is to implement 2021 Iowa Acts, Senate File 619, division XVI, which created a standing vehicle for distributing disaster recovery housing assistance to eligible homeowners in the form of forgivable loans and to eligible renters in the form of grants. The rules describe the operation of the program, define eligible homeowners and eligible renters, describe eligible uses of funds, set the maximum forgivable loan and grant amounts that may be awarded, set the terms of forgivable loans and grants, and allow the Authority to request information as needed to provide reports.

The legislation also established an Eviction Prevention Program. This program allows the Authority to award grants to keep eligible renters in their current residences and to eviction prevention partners to pay for rent or housing stability services for the purpose of preventing the eviction of eligible renters. The rules set the income qualifications for eligible renters in the program, describe the eligible uses of funds, and describe the terms on which grants may be awarded. Both the Disaster Recovery Housing Assistance Program and the Eviction Prevention Program must be activated by a state of disaster emergency proclamation.

Chapter 29 was reviewed as part of the Authority’s five-year rules review. In 2008, the Legislature appropriated funds to assist Iowans in need of housing after natural disasters in the state. Chapter 29 was created to oversee that funding and describe the operation of the program. The Authority has determined that it is appropriate to rescind and replace the chapter because there are no outstanding obligations from this program.

*Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 11, 2023, as **ARC 6820C**. The Authority received several comments from Habitat for Humanity of Iowa (Habitat). The comments and the Authority’s responses are summarized below.

First, Habitat requested that the Authority make contract sale agreements eligible for funding under the program. In accordance with the statute, the rules describe eligible homeowners and eligible uses of funds. The Authority determined that it is not necessary to further describe eligibility. Additionally, subparagraph 29.4(1)“b”(2) establishes the method for calculating the amount of down payment assistance to be awarded to an eligible homeowner and states that eligible homeowners who have purchased their home under a real estate purchase contract may apply for a forgivable loan.

Second, Habitat asked the Authority to revise paragraphs 29.3(1)“c” and “d” by adding the phrase “at the time of application and funding” to the beginning of each paragraph. Habitat commented that, as presented in the Notice, those requirements would take too long to be determined and that families need help sooner. The cited paragraphs do not preclude the Authority from providing down payment assistance

for replacement housing as soon as possible following a disaster. The Authority can conduct a duplication of benefits determination later, at the time any buyout is complete. Subparagraph 29.4(1)“b”(3) also provides for the repayment of any subsequent disaster compensation received by a homeowner.

Third, Habitat commented that a disaster-affected home should be the primary residence of an eligible homeowner. This requirement was published in the Notice and found in the definition of “disaster-affected home” in rule 265—29.1(16).

Fourth, Habitat noted that after a disaster, it is very difficult to purchase a replacement house in a timely manner and most families will want to remain in their same community. Habitat requested that the Authority add a third eligible use of funds for homeowners. The suggested use was to award grants for rental assistance so that homeowners can obtain rental housing in their community. In response, the Authority notes that Iowa Code section 16.57B specifically outlines the eligible uses of funds. It would be outside the scope of the Authority’s rule-making authority to add an eligible use of funds not specifically identified in the statute.

One change from the Notice has been made to remove a reference to 2021 Iowa Acts, chapter 177, division XVI, since the legislation has been codified in the Iowa Code.

#### *Adoption of Rule Making*

This rule making was adopted by the Authority on May 3, 2023.

#### *Fiscal Impact*

The legislation did not appropriate any funds to the programs. The fiscal impact of the rule making can only be determined based on the occurrence of a future natural disaster.

#### *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, pursuant to 265—Chapter 18.

#### *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 July 5, 2023.

The following rule-making action is adopted:

Rescind 265—Chapter 29 and adopt the following **new** chapter in lieu thereof:

#### CHAPTER 29 DISASTER RECOVERY HOUSING ASSISTANCE

**265—29.1(16) Definitions.** For purposes of this chapter, unless the context otherwise requires:

“*Authority*” means the Iowa finance authority created in Iowa Code section 16.1A.

“*Council of governments*” or “*COG*” means an Iowa council of governments as defined by Iowa Code chapter 28H.

“*Disaster-affected home*” means a primary residence that is destroyed or damaged due to a natural disaster that occurs on or after June 16, 2021, and that is located in a county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance.

“*Fund*” means the disaster recovery housing assistance fund.

“*Local program administrator*” means the same as defined in subrule 29.2(1).

“*Program*” means the disaster recovery housing assistance program, except for where the term “program” is used in rule 265—29.8(16).

“*Replacement housing*” means housing purchased by a homeowner or leased by a renter needed to replace a disaster-affected home that is destroyed or damaged beyond reasonable repair as determined by a local program administrator.

“*Retention agreement*” means an agreement as described in subrule 29.5(6).

“*Retention period*” means a period of time during which a retention agreement will remain in place. The retention period will begin on the date of a loan closing or the date repairs are completed and will end five years after the beginning of the retention period.

“*State of disaster emergency*” means the same as described in Iowa Code section 29C.6(1).

### **265—29.2(16) Operation of program with local program administrators.**

**29.2(1) *Local program administrators.*** For purposes of this chapter, “local program administrator” means any of the following:

*a.* The cities of Ames, Cedar Falls, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Iowa City, Waterloo, and West Des Moines.

*b.* A council of governments whose territory includes at least one county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance or the eviction prevention program under Iowa Code section 16.57C on or after June 16, 2021.

*c.* A community action agency as defined in Iowa Code section 216A.91 whose territory includes at least one county that is the subject of a state of disaster emergency proclamation by the governor that authorizes disaster recovery housing assistance or the eviction prevention program under Iowa Code section 16.57C on or after June 16, 2021.

*d.* A qualified local organization, organized as a nonprofit in the state of Iowa, or a governmental entity that provides housing stability services. Housing stability services may include:

- (1) Housing counseling;
- (2) Legal services related to eviction proceedings and maintaining housing stability; and
- (3) Housing navigation services.

**29.2(2) *Agreements with local government administrators.*** The authority will enter into agreements with local program administrators working in disaster-affected counties for the purpose of reviewing applications for disaster recovery housing assistance and determining whether applicants are eligible for assistance under the program.

**29.2(3) *Review of requests for assistance.*** To be considered for a forgivable loan or grant under the program, a homeowner or renter must register for the disaster case management program established pursuant to Iowa Code section 29C.20B. The disaster case manager may refer the homeowner or renter to the appropriate local program administrator. If referred by disaster case managers, homeowners and renters will submit applications to local program administrators in the manner prescribed by the authority. Local program administrators shall accept and review each application. The authority may award a forgivable loan or grant after a local program administrator has determined the following:

- a.* Whether the applicant is eligible for assistance.
- b.* Whether the requested funds are being requested for a use permitted under the program.
- c.* The amount of financial assistance to be awarded to the homeowner or renter.

**29.2(4) *Administrative fees.*** The authority shall not use more than 5 percent of the moneys in the fund on July 1 of a fiscal year for purposes of administrative costs and other program support during the fiscal year. The authority may share a portion of the funds reserved for its administrative costs with local program administrators to reimburse their administrative costs.

**29.2(5) Proceeds of repayments.** All loan amounts repaid to the authority by an eligible homeowner pursuant to this chapter shall be returned to the disaster recovery housing assistance fund created in Iowa Code section 16.57B.

**265—29.3(16) Eligibility.**

**29.3(1) Eligible homeowners.** To be eligible for a forgivable loan under the program, all of the following requirements shall apply:

*a.* The homeowner’s disaster-affected home must have sustained damage greater than the damage that is covered by the homeowner’s property and casualty insurance policy insuring the home plus any other state or federal disaster-related financial assistance that the homeowner is eligible to receive.

*b.* A local official must either deem the disaster-affected home suitable for rehabilitation or damaged beyond reasonable repair.

*c.* The disaster-affected home is not eligible for buyout by the county or city where the disaster-affected home is located, or the disaster-affected home is eligible for a buyout by the county or city where the disaster-affected home is located but the homeowner is requesting a forgivable loan for the repair or rehabilitation of the homeowner’s disaster-affected home in lieu of a buyout.

*d.* Assistance under the program must not duplicate benefits provided by any local, state, or federal disaster recovery assistance program.

*e.* A homeowner must be referred to the authority or to a local program administrator to be considered for a financial assistance award.

**29.3(2) Eligible renters.** To be eligible for a grant under the program, all of the following requirements shall apply:

*a.* A local program administrator either deems the disaster-affected home of the renter suitable for rehabilitation but unsuitable for current short-term habitation, or the disaster-affected home is damaged beyond reasonable repair.

*b.* Assistance under the program must not duplicate benefits provided by any local, state, or federal disaster recovery assistance program.

*c.* A renter must be referred to the authority or to a local program administrator to be considered for a financial assistance award.

*d.* A renter must be a party to a written lease.

*e.* The landlord must not reside at the same address as the eligible renter.

**29.3(3) Registration required.** To be considered for a forgivable loan or grant under the program, a homeowner or renter must register for the disaster case management program established pursuant to Iowa Code section 29C.20B. The disaster case manager may refer the homeowner or renter to the appropriate local program administrator.

**265—29.4(16) Eligible uses of funds.**

**29.4(1) Forgivable loans.** The authority may award a forgivable loan to an eligible homeowner for any of the following purposes:

*a.* Repair or rehabilitation of the disaster-affected home.

*b.* Down payment assistance on the purchase of replacement housing, and the cost of reasonable repairs to be performed on the replacement housing to render the replacement housing decent, safe, sanitary, and in good repair. For purposes of this paragraph, “decent, safe, sanitary, and in good repair” means the same as described in 24 CFR §5.703. The amount of down payment assistance that may be awarded to an eligible homeowner must not exceed 25 percent of the purchase price of the home being purchased plus any amount allowed for repairs, or \$50,000, whichever is less.

(1) Replacement housing shall not be located in a 100-year floodplain.

(2) For purposes of calculating the amount of down payment assistance available to the eligible homeowner, the amount of the down payment assistance will be reduced by the amount of any disaster compensation received by the eligible homeowner in excess of any amount necessary to pay off a mortgage or real estate purchase contract on the disaster-affected home.

(3) As a condition of receiving down payment assistance, the eligible homeowner must agree that any disaster compensation received subsequent to the closing of the forgivable loan, if not applied toward repayment of a mortgage on the disaster-affected home, shall be used by the eligible homeowner to pay down the balance of the forgivable loan outstanding at the time the eligible homeowner receives such disaster compensation.

(4) An eligible homeowner shall not use the assistance allowed under this paragraph for the purchase of more than one home.

(5) Replacement housing must be used as the eligible homeowner's primary residence.

**29.4(2) Grants.** The authority may award a grant to an eligible renter to provide short-term financial assistance for the payment of rent for replacement housing, pursuant to the limitations set forth in subrule 29.6(1).

**265—29.5(16) Loan terms.** Loans made under the program shall, at a minimum, contain the following terms:

**29.5(1) Five-year term.** The duration of the loan will be for a term of five years.

**29.5(2) Amount.** The maximum amount of a loan made under this program shall be \$50,000.

**29.5(3) Interest.** Loans made pursuant to the program shall bear no interest.

**29.5(4) Forgivability.** Loans made pursuant to the program will be forgiven and the principal amount of the loan reduced by one-sixtieth of the initial loan amount for each full month of the retention period in which the homeowner is not in default pursuant to the loan agreement, beginning on the date of the final disbursement of forgivable loan proceeds.

**29.5(5) Repayment due upon sale of home.** If a homeowner who has been awarded a forgivable loan sells a disaster-affected home or replacement housing for which the homeowner received the forgivable loan prior to the end of the loan term, the remaining principal on the forgivable loan shall be due and payable upon the sale of the home.

**29.5(6) Retention agreement.** Each loan made pursuant to this program shall be secured by a retention agreement that shall constitute a lien on the title of the real property for which the forgivable loan is made until such time as the forgivable loan has either been fully forgiven or paid in full. However, if an eligible homeowner receives a buyout of the disaster-affected home from the hazard mitigation grant program established in Iowa Code chapter 29C or any other funding source, the receipt of the buyout will not trigger a repayment of assistance received under subrule 29.4(1).

**29.5(7) General conditions of assistance.**

*a.* If an eligible homeowner receives other disaster compensation after a forgivable loan is awarded, the authority may require repayment of some or all of the forgivable loan based on the amount of disaster compensation received and review for any duplication of benefits.

*b.* Any home to be purchased, repaired or rehabilitated using assistance under the program must be in compliance with all applicable state and local laws, rules and ordinances. To be eligible for assistance, the home must be in compliance as of the time of closing in the case of purchases, and as of the date of the final disbursement of forgivable loan proceeds in the case of repair or rehabilitation.

**265—29.6(16) Grant terms.** Grants made under the program shall be subject to the following terms:

**29.6(1) Award calculation and maximum award.**

*a.* An eligible renter may be awarded up to six months of rent assistance.

*b.* An eligible renter may be awarded retroactive rent assistance.

*c.* An eligible renter may be awarded rent assistance to pay late fees provided that the late fees are permissible under Iowa Code chapter 562A or 562B.

*d.* Rent assistance will be calculated by first multiplying the monthly rent amount stated on the eligible renter's lease by the number of months for which assistance is needed, and then adding any eligible retroactive rent assistance and late fees.

*e.* The amount of monthly rent assistance used in calculating the award must not exceed the amount stated on the eligible renter's lease.

*f.* The maximum allowable rent assistance that may be awarded must not exceed the lesser of:

(1) The sum of the amount stated on the eligible renter's lease multiplied by six months, plus late fees; or

(2) \$5,000.

**29.6(2) Priority of awards.** The authority may prioritize awards of rent assistance to eligible renters earning 80 percent or less of the area median income for the county where the replacement housing is located.

**29.6(3) Disbursement.** The authority will disburse rent assistance only after a complete application has been received, an award has been approved by the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses. Disbursements will be paid directly to the eligible renter's landlord, unless the authority determines that payment to the landlord is not feasible. If the authority determines it is not feasible to pay the eligible renter's landlord directly, the authority may disburse payment directly to the eligible renter.

**265—29.7(16) Reporting.** A local program administrator working with the authority to administer assistance provided under rule 265—29.4(16) will submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the general assembly or the governor's office.

**265—29.8(16) Eviction prevention program.**

**29.8(1) Purpose.** The authority shall establish and administer an eviction prevention program. Under the eviction prevention program, the authority shall award grants to eligible renters and to eviction prevention partners for purposes of this rule. Grants may be awarded upon a state of disaster emergency proclamation by the governor that authorizes the eviction prevention program. Eviction prevention assistance shall be paid out of the fund established in Iowa Code section 16.57B.

**29.8(2) Rent assistance.**

*a.* Grants awarded to eligible renters pursuant to this subrule shall be used for short-term financial rent assistance to keep eligible renters in their current residences.

*b.* For the purposes of this subrule, "eligible renter" means a renter whose income meets the qualifications of the program, who is at risk of eviction, and who resides in a county that is the subject of a state of disaster emergency proclamation by the governor that authorizes the eviction prevention program and meets the following requirements:

(1) To meet the income qualifications of the eviction prevention program established in this rule, a renter's household income must not exceed 80 percent of the area median income as published annually by the U.S. Department of Housing and Urban Development (HUD) for the county in which the rental unit is located.

(2) A renter must be a party to a written lease.

(3) The landlord must not reside at the same address as the eligible renter.

*c.* An eligible renter may receive rent assistance subject to the following limitations:

(1) An eligible renter may be awarded up to six months of rent assistance.

(2) An eligible renter may be awarded retroactive rent assistance.

(3) An eligible renter may be awarded rent assistance to pay late fees provided that the late fees are permissible under Iowa Code chapter 562A or 562B.

(4) Rent assistance will be calculated by first multiplying the monthly rent amount stated on the eligible renter's lease by the number of months for which assistance is needed, and then adding any eligible retroactive rent assistance and late fees.

(5) The amount of monthly rent assistance used in calculating the award must not exceed the amount stated on the eligible renter's lease.

(6) The maximum allowable rent assistance that may be awarded must not exceed the lesser of the sum of the amount stated on the eligible renter's lease multiplied by six months plus late fees or \$5,000.

*d.* A renter will apply for assistance under this rule in the form and manner required by the authority.

*e.* The authority will disburse rent assistance under this paragraph only after a complete application has been received, an award has been approved by the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses. Disbursements will be paid directly to the eligible renter’s landlord, unless the authority determines that payment to the landlord is not feasible. If the authority determines it is not feasible to pay the eligible renter’s landlord directly, the authority may disburse payment directly to the eligible renter.

**29.8(3) *Eviction prevention partners.***

*a.* Grants awarded to eviction prevention partners pursuant to this rule shall be used to pay for rent or housing stability services provided to eligible renters for the purpose of preventing the eviction of eligible renters.

*b.* For the purposes of this subrule, “eviction prevention partner” means a local program administrator as defined in subrule 29.2(1).

*c.* The authority may enter into an agreement with one or more eviction prevention partners to administer the program. The authority will prepare an agreement for each grant awarded to an eviction prevention partner. The agreement will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this rule.

*d.* Any substantive change to an agreement will require an amendment to the agreement. Amendments shall be requested in writing. No amendment shall be valid unless approved by the authority.

*e.* The authority will disburse funds under this paragraph only after an award has been approved by the authority and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenses.

*f.* An eviction prevention partner receiving an award under this rule shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the general assembly or the governor’s office.

**265—29.9(16) Financial assistance subject to availability of funding.** All financial assistance awarded pursuant to this chapter shall be subject to funds being made available to the authority for the purpose of awarding financial assistance to eligible homeowners and eligible renters in disaster-affected counties.

These rules are intended to implement Iowa Code sections 16.57A, 16.57B and 16.57C.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/31/23.