

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rulemaking related to tax credit programs

The Economic Development Authority (IEDA) hereby amends Chapter 43, “Hoover Presidential Library Tax Credit,” Chapter 47, “Endow Iowa Tax Credits,” Chapter 48, “Workforce Housing Tax Incentives Program,” and Chapter 116, “Tax Credits for Investments in Certified Innovation Funds,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code sections 15.106A, 15.356, 15E.305 and 15E.364.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code section 15E.364 as amended by 2023 Iowa Acts, House File 703; section 15E.305 as amended by 2023 Iowa Acts, House File 710; and sections 15.353 and 15E.52 as amended by 2023 Iowa Acts, Senate File 575.

Purpose and Summary

This rulemaking implements changes to multiple tax credit programs administered by IEDA to conform to 2023 Iowa Acts, House Files 703 and 710 and Senate File 575. The changes in the legislation include:

- House File 703 extends the availability of the Hoover presidential library tax credit until the end of calendar year 2024.
- House File 710 increases the allocation of available endow Iowa tax credits from \$6 million to \$13 million for tax year 2023. House File 710 also changes the applicability of 2022 Iowa Acts, chapter 1002, division VIII, to specify that the change to the maximum amount of tax credits granted to a taxpayer applied to endowment gifts made to an endow Iowa-qualified community foundation on or after January 1, 2023.
- Senate File 575 changes the workforce housing tax incentives program by adding construction of new dwelling units in urban areas as an eligible project type. Previously, greenfield development was an eligible project type in only small cities.
- Senate File 575 also changes the innovation investment tax credit by removing the requirement for IEDA to establish a wait list for fiscal years in which the amount of tax credit certificates applied for exceeds the amount allocated. Senate File 575 also extends the authority of IEDA to continue certifying new funds for the innovation fund tax credit until June 30, 2028. Previously, new certifications would have ceased as of June 30, 2023.

This rulemaking updates the rules for each affected program to be consistent with the Iowa Code and, pursuant to Executive Order 10, removes statutory language.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 1, 2023, as **ARC 7106C**.

IEDA received the following public comment:

“I don’t know that this would cause hardship for any particular person, but it certainly does appear to show favoritism and highly preferential treatment to a relatively small group of wealthy individuals benefiting causes not picked on the basis of demonstrated need. The Herbert Hoover Museum renovation

fund is estimated at 65% of the way to their \$20 million goal. They've already received a big \$5 million grant, post a healthy profit, and hold almost \$16 million in assets. And regarding the workforce housing units, as a member of the common working class and confident when I say that I speak for many, but the housing that is being built according to the investor's preferred financial interest and not with the worker occupants personal and financial preferences. The American Dream is to own your own home, not pay half their income towards a 750-1250sq. ft. that will never belong to them. Further, these massive big box apartment/condo projects in urban areas are still likely to obtain the private funding that's needed so why add pages to the already hundreds and thousands of administrative rules for something not absolutely essential for the public's overall benefit?"

The person making the comment provided no identifying information. IEDA has not made any changes in response to the comment because IEDA is directed to adopt rules for both referenced programs by Iowa Code sections 15.356 and 15E.364(6).

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by the Authority Board on December 15, 2023.

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 IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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).

Effective Date

This rulemaking will become effective on February 14, 2024.

The following rulemaking action is adopted:

ITEM 1. Amend rule 261—43.3(15E) as follows:

261—43.3(15E) Authorization of tax credits.

43.3(1) For tax years beginning on or after January 1, 2021, but before January 1, ~~2024~~ 2025, a tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, equal to 25 percent of a donor's charitable donation made on or after July 1, 2021, to the Hoover presidential foundation for the Hoover presidential library and museum renovation project fund.

43.3(2) A donor shall not claim a tax credit for a donation made during a tax year beginning before January 1, 2021, or after December 31, ~~2023~~ 2024.

43.3(3) No change.

ITEM 2. Amend subrule 47.3(3) as follows:

~~47.3(3) The aggregate amount of tax credits available under this rule annually is \$6 million. For tax credits issued on or before December 31, 2022, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to 5 percent of the aggregate amount available each year. For tax credits issued on or after January 1, 2023, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to \$100,000. If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available. Applications placed on the waitlist shall first be funded in the order listed on the waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. For endowment gifts made on or after June 30, 2023, a taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.~~

ITEM 3. Rescind subrule 48.4(1) and adopt the following new subrule in lieu thereof:

48.4(1) Eligible project types.

a. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

b. The authority will determine whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule. The authority may consider factors such as:

- (1) Whether a unit is separated from other units by a ground-to-roof wall;
- (2) Whether the unit has a separate heating system;
- (3) Whether the unit has an individual meter for public utilities; and
- (4) Whether the unit has other units above or below.

ITEM 4. Rescind subrule **116.3(6)**.

ITEM 5. Rescind rule 261—116.6(15E) and adopt the following new rule in lieu thereof:

261—116.6(15E) Approval, issuance and distribution of investment tax credits.

116.6(1) Approval. Upon certification and registration by the authority of an innovation fund and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the applicant.

116.6(2) Preparation of the certificate. The tax credit certificate shall be in a form approved by the authority and shall contain the taxpayer's name, address, and tax identification number; the amount of credit; the name of the innovation fund; the year in which the investment was made and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this fund.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/10/24.