

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby adopts new Chapter 40, “Iowans Helping Iowans Housing Assistance Program,” Iowa Administrative Code.

The purpose of these rules is to implement a program of housing assistance for persons affected by certain natural disasters that occurred in 2010.

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.

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to the victims of the natural disasters is needed immediately, and the normal notice and public participation process would delay implementation of the program. The Authority is also concurrently publishing these rules under Notice of Intended Action as **ARC 9078B** to allow for public comment.

The Authority finds that these rules confer a benefit on the persons adversely affected by the natural disasters, in that the rules provide assistance and ease and speed the administration of an important program benefiting those persons. These rules should be implemented as soon as feasible in order to facilitate the provision of assistance under the program; therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

The Authority adopted these rules on August 20, 2010.

These rules are intended to implement Iowa Code sections 16.5(1)“r” and 16.40.

These rules became effective on August 20, 2010.

The following amendment is adopted.

Adopt the following new 265—Chapter 40:

CHAPTER 40

IOWANS HELPING IOWANS HOUSING ASSISTANCE PROGRAM

265—40.1(16) Purpose. This chapter defines and structures the Iowans helping Iowans housing assistance program to aid individuals whose homes, located in parts of Iowa declared by the President of the United States to be disaster areas eligible for individual assistance, were destroyed or damaged by the natural disasters of 2010. Under the program, the authority may grant funds in accordance with this chapter to local government participants, including certain Iowa councils of governments, cities, and counties. The local government participants shall, in turn, loan funds to eligible residents under the conditions specified in this chapter to assist those eligible residents in purchasing homes generally comparable to those they lived in prior to the occurrence of the natural disasters of 2010 and in repairing or rehabilitating disaster-affected homes.

265—40.2(16) Definitions. For purposes of this chapter, the following definitions apply.

“*Authority*” means the Iowa finance authority.

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

“*Disaster-affected home*” means a primary residence that was destroyed or damaged by the natural disasters of 2010.

“*Disaster compensation*” means moneys received by an eligible resident as a result of damage caused to the eligible resident’s disaster-affected home by the natural disasters of 2010 from any of the following sources: (1) FEMA, (2) any other governmental assistance, or (3) proceeds of any insurance policy. “Disaster compensation” shall not include rental assistance received from FEMA or other sources.

“*Eligible repair expenses*” means the reasonable cost of repairing damage to a disaster-affected home necessitated by the natural disasters of 2010. “Eligible repair expenses” shall not include additions

to or expansions of a disaster-affected home or the purchase or installation of luxury items that were not part of the disaster-affected home prior to the natural disasters of 2010.

“*Eligible resident*” means an individual or family who resided in a disaster-affected home that was a primary, owner-occupied residence at the time of the natural disasters of 2010 and who:

1. Is the owner of record of a right, title or interest in the disaster-affected home; and
2. Has been approved by FEMA for housing assistance as a result of the natural disasters of 2010.

In cases where multiple persons own a disaster-affected home together, such as by a tenancy in common or joint tenancy, such persons will generally be deemed collectively to be the “eligible resident,” provided the requirements set forth in paragraphs “1” and “2” above are met. In the event that multiple persons assert inconsistent ownership claims of a disaster-affected home, the local government participant shall review the facts and, if necessary, make an allocation among the various applicants.

“*FEMA*” means the Federal Emergency Management Agency.

“*Forgivable loan*” means a loan made to an eligible resident pursuant to the requirements of this chapter.

“*Local government participant*” means:

1. Any of the following Iowa cities: Ames, Des Moines, and Waterloo;
2. Any COG whose territory encompasses one or more Iowa counties that have been declared by the President of the United States to be disaster areas as a result of the natural disasters of 2010; and
3. Any county that is not part of any Iowa council of governments and has been declared by the President of the United States to be a disaster area as a result of the natural disasters of 2010.

“*Natural disasters of 2010*” means the severe storms, tornadoes, and flooding that occurred in Iowa beginning June 1, 2010, and designated by FEMA as FEMA-1930-DR.

“*Program*” means the Iowans helping Iowans housing assistance program described in this chapter.

“*Retention agreement*” means an agreement, to be recorded as a lien against the property for which assistance is provided, requiring that if an eligible resident sells a home that was purchased or repaired with the assistance of a loan made under this chapter, then that portion of the original principal amount that has not been forgiven, if any, shall be repaid.

265—40.3(16) Grants to local government participants.

40.3(1) Allocation; grant agreement.

a. Initial allocation. The authority shall make an initial allocation of the funds made available for the program to the local government participants pro rata based on the funds awarded by FEMA under its housing assistance program, preliminary damage assessments completed by the Iowa homeland security and emergency management division, or other factors as may be determined reasonable by the authority to each local government participant’s jurisdiction as a percentage of the total amount of funds awarded as a result of the natural disasters of 2010.

b. Grant agreement. The authority shall enter into a grant agreement with each local government participant, pursuant to which the authority may disburse funds to the local government participant for the purposes described in this chapter. The grant agreement shall be prepared by the authority and may contain such terms and conditions, in addition to those specified in this chapter, as the executive director may deem to be necessary and convenient to the administration of the program and to the efficient and responsible use of the granted funds.

40.3(2) Review of requests for assistance. The local government participant shall accept and review each request for assistance and shall determine whether the requesting party is an eligible resident. If the requesting party is determined to be an eligible resident, the local government participant shall determine whether the funds are being requested for a use permitted under the program and the amount available to the eligible resident under the terms of the program.

40.3(3) Coordination with the Iowans helping Iowans business assistance program. For presidentially declared disaster areas outside a COG region, counties may elect to apply singly, join with other counties, or join with an adjacent COG region. Likewise, a city named in the definition of “local government participant” in rule 265—40.2(16) may join with a COG, county, or multicounty entity. To the extent local government participants act jointly or cooperatively in their participation in

the small business disaster recovery financial assistance program administered by the Iowa department of economic development pursuant to 261—Chapter 78, Iowa Administrative Code, the authority may require the local government participants to similarly act jointly or cooperatively in their participation under this chapter.

40.3(4) *Reallocation of unused funds.* Following one year, or following any three-month period during which a local government participant has requested no draws, the authority may reallocate all or part of any remaining portion of funds initially allocated to that local government participant to another local government participant with a demonstrated need for program funds.

40.3(5) *Administrative fees.* Each local government participant shall be entitled to receive an administrative fee equal to 5 percent of the funds it loans via the program, plus reasonable inspection fees as may be allowed in the grant agreement.

40.3(6) *Proceeds of repayments.* All loan amounts repaid to a local government participant by an eligible resident pursuant to this chapter shall be returned to the authority's housing assistance fund created by Iowa Code section 16.40.

265—40.4 Reserved.

265—40.5(16) Eligible uses.

40.5(1) *Forgivable loans.* Local government participants may make forgivable loans, pursuant to the conditions set forth in rule 265—40.7(16), to eligible residents for the following eligible uses:

a. Down payment assistance. An eligible resident whose disaster-affected home was destroyed or damaged beyond reasonable repair may be provided down payment assistance for the purchase of replacement housing located within the local government participant's jurisdiction, but outside the 100-year flood plain, and, if necessary, for the cost of making reasonable repairs to the home being purchased to make it safe, decent, and habitable. The amount of down payment assistance available to an eligible resident (including any amount allowed for making reasonable repairs to the home being purchased) shall not exceed 25 percent of the purchase price of the home being purchased and, in no event, shall the down payment assistance and any amount allowed for repairs collectively exceed \$25,000.

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

(2) As a condition of receiving down payment assistance, the eligible resident shall 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 resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) Down payment assistance shall be allowed only for the purchase of a primary residence by means of a fully amortized mortgage loan from a regulated lender featuring a rate of interest that is fixed for at least 5 years and that has a term not to exceed 30 years.

(4) Eligible residents who receive down payment assistance under paragraph 40.5(1) "a" may not receive the assistance available under paragraph 40.5(1) "b."

(5) An eligible resident shall not use the assistance allowed under 40.5(1) "a" for the purchase of more than one home.

b. Housing repair or rehabilitation. An eligible resident whose disaster-affected home is not proposed, or located in an area proposed, by a municipality or county to the Iowa homeland security and emergency management division for property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010) may receive financial assistance to pay for eligible repair expenses up to an amount not to exceed \$25,000 if the local government participant determines that the repair or rehabilitation of the home is feasible. The local government participant

may establish eligibility criteria for housing repair or rehabilitation assistance for disaster-affected homes located in the 100-year flood plain, including but not limited to exclusion of such properties based upon local flood plain management requirements. The eligible resident shall establish the necessity and reasonable cost of the repairs or rehabilitation to the reasonable satisfaction of the local government participant.

(1) For purposes of calculating the amount of assistance available to the eligible resident pursuant to this paragraph, the cost of repairs to, or rehabilitation of, the disaster-affected home shall be reduced by the amount of any disaster compensation received.

(2) As a condition of receiving assistance pursuant to this paragraph, the eligible resident shall agree that any disaster compensation received subsequent to the closing of the forgivable loan shall be used by the eligible resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) An eligible resident who receives assistance pursuant to this paragraph shall not be eligible for assistance under paragraph 40.5(1)“a.”

c. General conditions of assistance. Any home to be purchased, repaired or rehabilitated using assistance under the program must be in compliance with all applicable state and local rules and ordinances, including, but not limited to, those relating to building codes, zoning, flood plain ordinances, lead-safe renovators and work practices, and asbestos inspection and removal. 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.

40.5(2) Reserved.

40.5(3) Reserved.

40.5(4) *Expenses incurred prior to August 20, 2010.* In the event an eligible resident purchased a home or made or caused to be made repairs to a disaster-affected home located within the jurisdiction of a local government participant prior to August 20, 2010 (the effective date of this chapter), the eligible resident shall be eligible for reimbursement therefor under this chapter as though the purchase, repairs, or payments had taken place subsequent to such date.

40.5(5) *Applications for assistance.* To apply for down payment assistance or assistance for repair or rehabilitation of a disaster-affected home, the eligible resident shall apply to the local government participant in whose jurisdiction the disaster-affected home is located.

265—40.6(16) Loan terms. Loans made under the program shall, at a minimum, contain the following terms:

40.6(1) *Forgivability.* Forgivable loans made pursuant to the program shall be forgivable over a five-year period. One-fifth of the total principal amount loaned shall be forgiven following each full year the eligible resident owns the home for which the loan was made, beginning on the date of the final disbursement of forgivable loan proceeds.

40.6(2) *Zero percent interest.* Loans made pursuant to the program shall bear no interest.

40.6(3) *Five-year term.* All loans made pursuant to the program shall be for a term of five years.

40.6(4) *Repayment due upon sale of home.* Any principal of a forgivable loan that has not yet been forgiven at the time the home for which the forgivable loan was made is sold by the eligible resident (including property acquisitions) shall be due and payable upon such sale.

40.6(5) *Retention agreement.* Each loan made pursuant to this program shall be secured by a retention agreement which 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; provided, however, that in the case of a property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010), payment of the following shall be waived:

a. That portion of the repayment due for a down payment assistance loan made under paragraph 40.5(1)“a”; and

b. That portion of the repayment due for a housing repair or rehabilitation assistance loan made under paragraph 40.5(1) “*b*” for which the eligible resident provides documentation that the assistance was expended for the purpose for which it was awarded.

265—40.7(16) Financial assistance subject to availability of funding. All financial assistance authorized pursuant to this chapter shall be subject to funds being made available to the authority for the purposes set forth herein.

These rules are intended to implement Iowa Code sections 16.5(1) “*r*” and 16.40.

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