Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 265—Chapter 3
"Multifamily Housing"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5(1) and 16.5C(1)
State or federal law(s) implemented by the rulemaking: Iowa Code section 16.5C(1)

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

July 30, 2024	1963 Bell Avenue
1:15 to 1:30 p.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Iowa Finance Authority (IFA) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Iowa Finance Authority
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Des Moines, Iowa 50315
Email: lisa.connell@iowaeda.com

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), IFA proposes to rescind and adopt a new Chapter 3. The chapter describes the policies and procedures applicable to the Multifamily Loan Program. The purpose of the program is to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Entities that apply for and are approved for loans will bear the costs of the rulemaking.

- Classes of persons that will benefit from the proposed rulemaking:

Entities that apply for and are approved for loans will benefit from clarity and streamlining of the rules.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Entities interested in applying for the program may require staff time to complete an application. Recipients may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved.

- Qualitative description of impact:

Entities that apply for and are approved for loans will benefit from clarity and streamlining of the rules.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

IFA staff time is required to review and approve applications, administer loans, and communicate with program applicants and recipients.

- Anticipated effect on state revenues:

This proposed rulemaking has no fiscal impact. IFA is directed to make loans for various purposes by Iowa Code section 16.5C. The program is funded by moneys under the control of IFA pursuant to Iowa Code section 16.32.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Only the entities that will potentially benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

IFA has not identified less costly methods or less intrusive methods of administering the program.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

IFA did not consider any other methods.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

IFA did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 3 and adopt the following **new** chapter in lieu thereof:

CHAPTER 3
MULTIFAMILY HOUSING

265—3.1(16) Purpose. Through the multifamily loan program (program) established pursuant to this chapter, the authority seeks to preserve the existing supply of affordable rental units at risk of being lost and to foster the production of new affordable rental units in the state.

265—3.2(16) Application procedure. Applications will be reviewed by the authority upon receipt.

265—3.3(16) Eligibility.

3.3(1) Eligible applicants. As determined by the authority, to be eligible for a loan under the program, applicants shall:

a. Demonstrate a market need for the units.

b. Agree to observe certain compliance measures, including a recorded agreement to ensure long-term affordability.

c. Obtain a local contributing effort in an amount of up to 1 percent of the proposed loan when requested by the authority.

d. Agree to a change of management, general partner, or managing member when requested by the authority.

e. Agree to Multifamily Accelerated Processing (MAP) of the U.S. Department of Housing and Urban Development (HUD), when requested by the authority.

f. Agree to participate in the HUD Risk-Sharing Program, when requested by the authority.

g. Execute such documents and instruments as may be required by the authority.

h. Provide such information, certificates and other items requested by the authority.

i. Obtain a title guaranty certificate from the authority's title guaranty division protecting the authority's interest in the real property securing the loan, including any endorsements required by the authority, unless specifically waived by the authority.

3.3(2) Eligible projects. As determined by the authority, to be eligible for a loan under the program, projects shall:

a. Be financially feasible for at least the term of the assistance.

b. Have adequately funded replacement and operating reserve funds.

c. Consist of at least five housing units.

d. For the term of the loan, reserve at least 75 percent of the housing units for tenants whose income is at or below 80 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 80 percent or less of the area median income.

3.3(3) Loan terms.

a. Loans under this program may have a maximum loan term of 24 months for construction financing and 40 years for permanent financing.

b. Other terms and conditions of loans under this program may vary from project to project.

3.3(4) Maximum loan fees are as follows:

a. Commitment fee (construction period) - 1.0 percent of total development costs.

b. Commitment fee (permanent loan) - 2.0 percent of loan amount.

c. Inspection fee (construction period) - $500 per inspection; inspections will typically occur with each draw or on a monthly basis during construction.

d. Application fee - 0.3 percent of proposed loan amount.

e. Asset management fee - calculated as $25 per unit × number of total project units; submitted annually on or before January 31.

f. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program.

265—3.4(16) Multifamily loan program for workforce housing loan assistance.

3.4(1) *Eligible applicants.* To be eligible for a loan under this rule (the "primary loan"), applicants shall:

a. Be an Iowa city or county (the "borrower").

b. Agree to use the primary loan proceeds to make a loan to a third party to build housing in the applicant's jurisdiction that meets the requirements of this rule and subrules 3.3(1), 3.3(3), and 3.3(4) (the "secondary loan").

3.4(2) *Eligible projects.* As determined by the authority, to be eligible for a loan under this rule, projects shall:

a. Be financially feasible for at least the term of the assistance.

b. Have adequately funded replacement and operating reserve funds.

c. Consist of at least five housing units.

d. For the term of the loan, reserve at least 50 percent of the housing units rehabilitated or created with the proceeds of the secondary loan for families whose annual income at the time of leasing is at or below 120 percent of the area median income and whose rent is no more than 30 percent of the income of a family whose annual income is 120 percent or less of the area median income unless the authority agrees otherwise.

e. Preference shall be given to cities and counties that can document an increased need for housing as the result of new job creation within the city's or the county's jurisdiction.

3.4(3) *Loan terms.*

a. The primary loan is a general obligation of the borrower, but may be unsecured.

b. The borrower shall use funds received in repayment of the secondary loan first to make the scheduled principal and interest payments on the primary loan. Any secondary loan payments remaining after all then-due scheduled payments on the primary loan have been repaid may be reloaned by the borrower on the same basis as if such secondary loan payment amounts were proceeds of the primary loan.

265—3.5(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of directors of the authority. Meeting the eligibility criteria in these rules is not a guaranty of receiving funds. Authority staff will determine the necessary and appropriate procedures and processes for underwriting and analysis to further the purposes of this program. In addition, the authority anticipates that because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans will vary from project to project. The authority will make available its general operating procedures and guidelines for this program, as such may be revised from time to time.

These rules are intended to implement Iowa Code section 16.5C(1).