Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 65
"Redevelopment Tax Credits Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15, subchapter II, part 9

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15, subchapter II, part 9

Public Hearing

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

October 21, 2025	1963 Bell Avenue
10 to 10:15 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Economic Development Authority (Authority) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 65 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Redevelopment Tax Credits Program available pursuant to Iowa Code chapter 15, subchapter II, part 9 as amended by 2025 Iowa Acts, Senate File 657 and House File 975. The program provides tax credits for the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

The new chapter will be clearer and more concise throughout and will omit language that duplicates statute. The new chapter omits language that is unnecessary due to the repeal of the Brownfield Redevelopment Program and the elimination of the brownfield advisory council by 2025 Iowa Acts, House File 975. The new chapter also incorporates the Certified Public Accountant (CPA) attestation added to the Redevelopment Tax Credits Program in House File 975. Inconsistencies with statute amended by 2025 Iowa Acts, Senate File 657, have also been addressed.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

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

Entities applying for or participating in the program will bear the costs of the rulemaking.

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

Entities applying for or participating in the program will benefit from the rulemaking.

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 tax credits may require staff time to complete an application. Entities that receive tax credits may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants and recipients 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:**

The program supports the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

3. **Costs to the State:**

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

Authority staff time is required to review and approve applications, issue tax credit certificates, review reports, and communicate with program applicants and recipients.

- **Anticipated effect on State revenues:**

The rules have no anticipated impact on State revenues. Up to $15 million total in tax credits may be awarded by the Authority for this program in each fiscal year pursuant to Iowa Code section 15.293A as amended by 2025 Iowa Acts, Senate File 657.

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 the program bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported.

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

The Authority has not identified any less costly or less intrusive methods for administering the program.

6. **Alternative methods considered by the agency:**

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

The Authority did not consider any other methods.

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

The Authority 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 rulemaking impacts only small businesses seeking tax credits. The rules regarding compliance and reporting requirements are no more stringent than necessary to implement the purposes of the

program. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 65 and adopt the following **new** chapter in lieu thereof:

CHAPTER 65
REDEVELOPMENT TAX CREDITS PROGRAM

261—65.1(15) Definitions. As used in this chapter unless the context otherwise requires:

"Acquisition" means the purchase of brownfield or grayfield property.

"Affiliate" or *"affiliated entity"* means any entity to which one or more of the following applies:

1. The entity directly, indirectly, or constructively controls another entity.
2. The entity is directly, indirectly, or constructively controlled by another entity.
3. The entity is subject to the control of a common entity. A common entity is one that owns directly or individually more than 10 percent of the voting securities of the entity.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the same as defined in Iowa Code section 15.102.

"Brownfield site" means the same as defined in Iowa Code section 15.291.

"Grayfield site" means the same as defined in Iowa Code section 15.291.

"Previously remediated or redeveloped site" means a site at which prior remediation or redevelopment has occurred, including development for which an award of tax credits under this chapter has been made, and identified by the authority pursuant to the criteria in subrule 65.2(2).

"Program" means the redevelopment tax credits program administered pursuant to Iowa Code chapter 15, subchapter II, part 9, and this chapter.

"Qualifying investment" means the same as defined in Iowa Code section 15.291.

"Qualifying investor" means an applicant who has been approved by the authority to receive a redevelopment tax credit.

"Qualifying redevelopment project" means the same as defined in Iowa Code section 15.291.

"Redevelopment" means construction or development activities associated with a qualifying redevelopment project that are undertaken either for the purpose of constructing new buildings or improvements at a site where formerly existing buildings have been demolished or for the purpose of rehabilitating, reusing, or repurposing existing buildings or improvements. Redevelopment typically includes projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

"Remediation" includes characterization, risk assessment, removal, and cleanup of environmental contaminants located on and adjacent to a brownfield site in compliance with appropriate Iowa department of natural resources requirements and guidelines.

261—65.2(15) Eligibility. To be eligible for the program, an applicant must meet the criteria for eligibility in Iowa Code chapter 15, subchapter II, part 17 as amended by 2025 Iowa Acts, Senate File 657, and this rule.

65.2(1) *Site control.* The applicant must own the brownfield site or grayfield site or the applicant must have an agreement with the owner of a brownfield site or grayfield site prior to applying for tax credits. The agreement will include:

a. The total cost for remediating the site.

b. That the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.

c. That upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition, or redevelopment.

65.2(2) *Previously remediated or redeveloped sites.* The authority will determine whether a project constitutes subsequent redevelopment at the same site as a previously remediated or redeveloped site by considering factors including but not limited to:

a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.

b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.

c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.

d. Whether a proposed project is the result of the same planning process as another project.

e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.

f. Whether the development of one proposed project occurs at or near the same time as another proposed project.

65.2(3) *Leaking underground storage tanks.* A project that includes remediation of contaminants being addressed under Iowa's leaking underground storage tank (UST) program is not eligible for the program unless other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

65.2(4) *Violations of law.* The authority will determine whether the applicant has a record of violations of law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws. An applicant with such a record of violations of the law shall be ineligible for the program.

261—65.3(15) Limitations on qualifying investment. For the purposes of identifying qualifying investment for the purposes of the program, the following shall not be included:

1. The portion of the total cost of a project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under the program.
2. Any costs, including acquisition costs, incurred before the project is approved by the board.
3. Building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees, and related costs; developer fees; or the costs associated with selling or renting the property whether incurred before or after completion of the project.

261—65.4(15) Application—registration of projects—agreements.

65.4(1) *Application.*

a. Applications for redevelopment tax credits will only be accepted during the annual application period established by the authority.

b. An investor applying for a tax credit shall provide the authority with all of the following:

(1) The total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

(2) The financing sources of the investment that are directly related to the qualifying redevelopment project for which the investor is seeking approval for a tax credit as provided in this chapter.

(3) Any other information deemed necessary to review and score the application pursuant to this rule.

65.4(2) *Scoring.* Each complete and eligible application will be reviewed and scored by the authority pursuant to Iowa Code section 15.293B(1)*"f"* as amended by 2025 Iowa Acts, House File

975. Review criteria may include but are not limited to project need, project readiness, financial capacity, and project impact.

65.4(3) *Registration.* The authority will make tax credit award recommendations and register projects pursuant to Iowa Code section 15.293B(1)*"e"* as amended by 2025 Iowa Acts, House File 975.

65.4(4) *Approval.* Tax credit awards and amounts of tax credit awards are subject to approval by the board pursuant to Iowa Code section 15.293B(1)*"e"* as amended by 2025 Iowa Acts, House File 975. Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

65.4(5) *Agreement.*

a. The agreement entered pursuant to Iowa Code section 15.293B(3) will identify the tax credit amount, the award date, the project completion deadline, the qualifying investment and the total costs of the project.

b. The qualifying investor must execute and return the agreement to the authority within 90 days of transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

c. Agreement amendments must comply with Iowa Code chapter 15, subchapter II, part 9 as amended by 2025 Iowa Acts, Senate File 657, and this chapter. Qualifying investors may submit requests for amendments to authority staff.

(1) Except as provided in paragraph 65.4(4)*"b,"* requests to amend an agreement must be approved by the board.

(2) The board may designate authority staff with authority to approve nonsubstantive changes, including but not limited to the following:

1. Recipient name, address, and similar changes.
2. Line-item budget changes that do not reduce overall total project costs or qualifying investment.
3. Extension of a project completion deadline of up to 12 months.

d. Noncompliance with the agreement may result in revocation of all or a portion of the tax credit award pursuant to Iowa Code section 15.293B(3).

65.4(6) *Reports.* Qualifying investors 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 board, the general assembly, or the governor's office.

65.4(7) *Project completion.* The project completion deadline may be extended pursuant to Iowa Code section 15.293B(4). The authority may for good cause within the discretion of the authority extend a qualifying investor's completion deadline by up to 12 months upon application by the qualifying investor, which application shall be made prior to the expiration of the completion deadline in the manner and form prescribed by the authority. The authority may approve a second extension of up to 12 months if, prior to the expiration of the first 12-month extension, the qualifying investor applies and substantiates to the satisfaction of the authority that the second extension is warranted due to extenuating circumstances outside the control of qualifying investor.

65.4(8) *Certified public accountant (CPA) examination.* The attestation applicable to the examination required pursuant to Iowa Code section 15.293B(5) as amended by 2025 Iowa Acts, House File 975, is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601 or other comparable attestations identified by the authority. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 9; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 9, in all material respects. Within ten business days of a request by the authority, the qualifying investor shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

261—65.5(15) Redevelopment tax credit.

65.5(1) *Tax credit certificate.*

a. Issuance. The authority may issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualifying investor, including the CPA attestation required pursuant to Iowa Code section 15.293B(5) as amended by 2025 Iowa Acts, House File 975, and as described in subrule 65.4(6).

b. Claims. To claim a tax credit under this rule, a qualifying investor shall file a claim with the department of revenue pursuant to the applicable rules adopted by the department of revenue. A tax credit certificate shall not be used or included with a return filed for a taxable year beginning prior to the tax year listed on the certificate. The tax credit certificate(s) included with the qualifying investor's tax return shall be issued in the qualifying investor's name, expire on or after the last day of the taxable year for which the qualifying investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualifying investor's tax return.

c. Transfer. Tax credit certificates issued under this rule may be transferred to any person or entity to the extent allowed by Iowa Code section 15.293A(2)*"d"* and any applicable rules adopted by the department of revenue.

65.5(2) *Tax credit amount and limitations.*

a. The amount of the tax credit shall equal the applicable percentage of the qualifying investor's qualifying investment specified in Iowa Code section 15.293A(3).

b. The maximum amount of tax credits the board may award in any one fiscal year is specified in Iowa Code section 15.293A(6) as amended by 2025 Iowa Acts, Senate File 657.

65.5(3) *Tax credit carryover.* If the maximum amount of tax credits available has not been issued at the end of the fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or the authority may prorate the remaining credit amount among other eligible applicants.

These rules are intended to implement Iowa Code chapter 15, subchapter II, part 9 as amended by 2025 Iowa Acts, Senate File 657 and House File 975.