IOWA FINANCE AUTHORITY[265]

[Prior to 7/26/85, Housing Finance Authority[495]]
[Prior to 4/3/91, Iowa Finance Authority[524]]

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CHAPTER 1
GENERAL

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/30

265—1.1(16) Mission. The mission of the authority is to administer programs and provide financial assistance to increase the supply of affordable housing, assist in the construction and operation of various types of water treatment facilities, provide financial assistance to lower the barriers to entry for beginning farmers, and provide title guaranties to maintain land title stability.
[**ARC 8412C**, IAB 11/27/24, effective 1/1/25]

265—1.2(16) Finance authority board of directors. Iowa Code section 16.2 creates the board of directors of the authority and describes the board's membership. The board holds meetings pursuant to Iowa Code section 16.2. Meetings are generally held at 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, or at such other location as the authority may designate. Meetings of the board are subject to Iowa Code chapter 21.
[**ARC 8412C**, IAB 11/27/24, effective 1/1/25]

265—1.3(16) Organization, requests, and submissions.

1.3(1) *Director.* The director is appointed pursuant to Iowa Code section 16.6 and performs such duties as assigned by the Iowa Code or the Iowa Administrative Code.

1.3(2) *Organization.* The authority is organized into such divisions as established by statute or the director pursuant to Iowa Code section 16.6.

1.3(3) *Requests and submissions.* All official communications, including submissions and requests, may be addressed to the Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, or to ifafyi@iowafinance.com. The authority's website address is www.iowafinance.com.
[**ARC 8412C**, IAB 11/27/24, effective 1/1/25]

These rules are intended to implement Iowa Code sections 17A.3 and 16.2.

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CHAPTER 2
LOAN PROGRAMS

Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 3
MULTIFAMILY HOUSING

Chapter rescission date pursuant to Iowa Code section 17A.7: 3/26/30

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.
[**ARC 8901C**, IAB 2/19/25, effective 3/26/25]

265—3.2(16) Application procedure. Applications will be reviewed by the authority upon receipt.
[**ARC 8901C**, IAB 2/19/25, effective 3/26/25]

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.

[**ARC 8901C**, IAB 2/19/25, effective 3/26/25]

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.

[**ARC 8901C**, IAB 2/19/25, effective 3/26/25]

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.

[**ARC 8901C**, IAB 2/19/25, effective 3/26/25]

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

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CHAPTER 4
GENERAL REVENUE BOND PROCEDURES
Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 5
SMALL BUSINESS LOAN PROGRAM
Rescinded **ARC 1947C**, IAB 4/1/15, effective 5/6/15

CHAPTER 6
GROUP HOME FACILITIES LOAN PROGRAM
Rescinded **ARC 1948C**, IAB 4/1/15, effective 5/6/15

CHAPTER 7
CONTESTED CASES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—7.1(17A) Scope and applicability. This chapter applies to contested case proceedings conducted by the authority.

265—7.2(17A) Definitions. Except where otherwise specifically defined by law:

"Authority" means the Iowa finance authority, as designated in Iowa Code chapter 220.

"Contested case" means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under 1998 Iowa Acts, chapter 1202, section 14.

"Executive director" means the executive director of the authority or an authorized representative of the executive director.

"Issuance" means the date of mailing of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

"Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"Presiding officer" means the board of the authority.

"Proposed decision" means the presiding officer's recommended findings of fact, conclusions of law, decision, and order in a contested case in which the entire board of the authority did not preside.

265—7.3(17A) Time requirements.

7.3(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

7.3(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

265—7.4(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding from the authority within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the authority action in question.

The request for a contested case proceeding should state the name and address of the requester, identify the specific authority action which is disputed and, where the requester is represented by a lawyer, identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

265—7.5(17A) Notice of hearing.

7.5(1) *Delivery.* Delivery of the notice of hearing to the person requesting a contested case constitutes the commencement of the contested case proceeding. Delivery may be executed by:

a. Personal service as provided in the Iowa Rules of Civil Procedure; or

b. Certified mail, return receipt requested; or

c. First-class mail; or

d. Publication, as provided in the Iowa Rules of Civil Procedure.

7.5(2) *Contents.* The notice of hearing shall contain the following information:

a. A statement of the time, place, and nature of the hearing;

b. A statement of the legal authority and jurisdiction under which the hearing is to be held;

c. A reference to the particular sections of the statutes and rules involved;

d. A short and plain statement of the matters asserted. If the authority or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;

e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the authority or the state and of parties' counsel where known;

f. Reference to the procedural rules governing conduct of the contested case proceeding;

g. Reference to the procedural rules governing informal settlement;

h. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer (e.g., the board of the authority, members of the authority's board, administrative law judge from the department of inspections and appeals); and

i. Notification of the time period in which a party may request, pursuant to 1998 Iowa Acts, chapter 1202, section 15(1) and rule 7.6(17A), that the presiding officer be an administrative law judge.

265—7.6(17A) Presiding officer.

7.6(1) In each contested case in which Iowa Code chapter 17A requires an evidentiary hearing, the chairperson of the authority will determine whether the hearing shall be held before the authority, one or more members of the authority's board, or an administrative law judge. Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the authority's board or members of the authority's board.

7.6(2) The executive director may deny the request only upon a finding that one or more of the following apply:

a. Neither the authority nor any officer of the authority under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interauthority appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

7.6(3) The executive director shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 7.6(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

7.6(4) An administrative law judge assigned to act as presiding officer in any of the authority's cases shall have the following technical expertness unless waived by the authority.

7.6(5) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the board of the authority. A party must seek any available intra-authority appeal in order to exhaust adequate administrative remedies.

7.6(6) Unless otherwise provided by law, members of the authority's board, when reviewing a proposed decision upon intra-authority appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

265—7.7(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the authority in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

265—7.8(17A) Telephone or video proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings or interactive video proceedings, including the hearing for the contested case proceeding, may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the

nature of the case, will be considered when location is chosen. The cost of the telephone hearing or an interactive video hearing may be assessed equally to each party.

265—7.9(17A) Disqualification.

7.9(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that:

(1) Is a party to the case, or an officer, director or trustee of a party;

(2) Is a lawyer in the case;

(3) Is known to have an interest that could be substantially affected by the outcome of the case; or

(4) Is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

7.9(2) The term "personally investigated" means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term "personally investigated" does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person's investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other authority functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 as amended by 1998 Iowa Acts, chapter 1202, section 9, and subrules 7.9(3) and 7.23(9).

7.9(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

7.9(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 7.9(1), the party shall file a motion supported by an affidavit pursuant to 1998 Iowa Acts, chapter 1202, section 19(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under rule 265—7.25(17A) and seek a stay under rule 265—7.29(17A).

265—7.10(17A) Consolidation—severance.

7.10(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where:

a. The matters at issue involve common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues involved; and

c. Consolidation would not adversely affect the rights of any of the parties to those proceedings.

7.10(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

265—7.11(17A) Pleadings.

7.11(1) Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

7.11(2) Petition.

a. Any petition required in a contested case proceeding shall be filed within 20 days of delivery of the notice of hearing or subsequent order of the presiding officer, unless otherwise ordered.

b. A petition shall state in separately numbered paragraphs the following:

(1) The persons or entities on whose behalf the petition is filed;

(2) The particular provisions of statutes and rules involved;

(3) The relief demanded and the facts and law relied upon for such relief; and

(4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

7.11(3) Answer. An answer shall be filed within 20 days of service of the petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

7.11(4) Amendment. Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

265—7.12(17A) Service and filing of pleadings and other papers.

7.12(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the authority, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code section 17A.16(2), the party filing a document is responsible for service on all parties.

7.12(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address. Service by mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

7.12(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the executive director, Iowa finance authority, at the address set forth in rule 265—1.3(16). All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the authority.

7.12(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the Iowa finance authority at its office located at the address set forth in rule 265—1.3(16), delivered to an established courier service for immediate delivery to that office, or mailed by first-class mail or state interoffice mail to that office, so long as there is proof of mailing.

7.12(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

> I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (authority office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed or state interoffice mail).
>
> (Date) (Signature)

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

265—7.13(17A) Discovery.

7.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

7.13(2) Any motion relating to discovery shall allege that the moving party has previously made a good-faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 7.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

7.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

265—7.14(17A) Subpoenas.

7.14(1) *Issuance.*

a. An authority subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

7.14(2) *Motion to quash or modify.* The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

265—7.15(17A) Motions.

7.15(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

7.15(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the authority or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

7.15(3) The presiding officer may schedule oral argument on any motion.

7.15(4) Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the authority or an order of the presiding officer.

7.15(5) Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 265—7.28(17A) and appeal pursuant to rule 265—7.27(17A).

265—7.16(17A) Prehearing conference.

7.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than seven days prior to the hearing date. A prehearing conference shall be scheduled not less than three business days prior to the hearing date.

Written notice of the prehearing conference shall be given by or on behalf of the authority to all parties. For good cause the presiding officer may permit variances from this rule.

7.16(2) Each party shall bring to the prehearing conference:

a. A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and

b. A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.

c. Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

7.16(3) In addition to the requirements of subrule 7.16(2), the parties at a prehearing conference may:

a. Enter into stipulations of law or fact;

b. Enter into stipulations on the admissibility of exhibits;

c. Identify matters which the parties intend to request be officially noticed;

d. Enter into stipulations for waiver of any provision of law; and

e. Consider any additional matters which will expedite the hearing.

7.16(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

265—7.17(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

7.17(1) A written application for a continuance shall:

a. Be made at the earliest possible time and no less than seven days before the hearing except in case of unanticipated emergencies;

b. State the specific reasons for the request; and

c. Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The authority may waive notice of such requests for a particular case or an entire class of cases.

7.17(2) In determining whether to grant a continuance, the presiding officer may consider:

a. Prior continuances;

b. The interests of all parties;

c. The likelihood of informal settlement;

d. The existence of an emergency;

e. Any objection;

f. Any applicable time requirements;

g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
h. The timeliness of the request; and
i. Other relevant factors.
The presiding officer may require documentation of any grounds for continuance.

265—7.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with authority rules. Unless otherwise provided, a withdrawal shall be with prejudice.

265—7.19(17A) Intervention.

7.19(1) *Motion.* A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

7.19(2) *When filed.* Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

7.19(3) *Grounds for intervention.* The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

7.19(4) *Effect of intervention.* If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

265—7.20(17A) Hearing procedures.

7.20(1) The presiding officer presides at the hearing, and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

7.20(2) All objections shall be timely made and stated on the record.

7.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

7.20(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

7.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

7.20(6) Witnesses may be sequestered during the hearing.

7.20(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;
b. The parties shall be given an opportunity to present opening statements;
c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter, and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

265—7.21(17A) Evidence.

7.21(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

7.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

7.21(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

7.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

7.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

7.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

265—7.22(17A) Default.

7.22(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

7.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

7.22(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final authority action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 265—7.27(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

7.22(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

7.22(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good

cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

7.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

7.22(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 7.25(17A).

7.22(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

7.22(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues; but unless the defaulting party has appeared, it cannot exceed the relief demanded.

7.22(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 265—7.29(17A).

265—7.23(17A) Ex parte communication.

7.23(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communication, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the agency or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 7.9(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

7.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

7.23(3) Written, oral or other forms of communication are "ex parte" if made without notice and opportunity for all parties to participate.

7.23(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 265—7.12(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

7.23(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

7.23(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 7.23(1).

7.23(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 265—7.17(17A).

7.23(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written

responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

7.23(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code subsection 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

7.23(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension, or revocation of the privilege to practice before the authority. Violation of ex parte communication prohibitions by authority personnel shall be reported to the executive director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

265—7.24(17A) Recording costs. Upon request, the authority shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

265—7.25(17A) Interlocutory appeals. Upon written request of a party or on its own motion, the board of the authority may review an interlocutory order of the presiding officer. In determining whether to do so, the board shall weigh the extent to which its granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the board at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

265—7.26(17A) Posthearing procedures and orders.

7.26(1) *Filing by parties of briefs and proposed findings.* The presiding officer may ask the parties to submit proposed findings and conclusions of law and a proposed order or briefs. Copies of the submission shall be served on all parties. The submission schedule, including waiver or briefs, shall be determined at the close of the hearing.

7.26(2) *Final decision or order.*

a. When a quorum of the entire board of the authority presides over the reception of evidence at the hearing, its decision is a final decision. The decision shall be in writing and shall include findings of fact and conclusions of law in conformance with Iowa Code chapter 17A.

b. In a contested case in which the hearing is held before an administrative law judge or a panel of the authority's board members constituting less than a quorum of the board, the presiding officer or panel shall render a proposed decision. The proposed decision shall be in writing and shall include findings of fact and conclusions of law in conformance with Iowa Code chapter 17A. The proposed decision becomes the final decision of the authority without further proceedings unless there is an appeal to, or review on motion of, the authority within 30 days.

7.26(3) *Decisions and orders.*

a. *By whom prepared.* The presiding officer who presided at the reception of evidence shall prepare a proposed or final decision or order in each case. Findings of fact shall be prepared by the presiding officer at the reception of the evidence in a case unless the officer becomes unavailable. If the officer is unavailable, the findings of fact may be prepared by another person qualified to be a presiding officer who

has read the record, unless demeanor of witnesses is a substantial factor. If demeanor is a substantial factor and the presiding officer is unavailable, the portions of the hearing involving demeanor shall be heard again or the case shall be dismissed.

b. *Content of decision or order.* The proposed or final decision or order shall:

(1) Be in writing or stated in the record.

(2) Include findings of fact. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If a party submitted proposed finding of fact in accordance with subrule 7.26(1), the decision or order shall include a ruling upon each proposed finding.

(3) Include conclusions of law, supported by cited authority or reasoned opinion.

c. *Delivery.* A copy of the proposed decision or order shall be delivered to the parties either by personal service or by certified mail, return receipt requested.

265—7.27(17A) Appeals and review.

7.27(1) *Appeal by party.* Any adversely affected party may appeal a proposed decision to the board of the authority within 30 days after issuance of the proposed decision.

7.27(2) *Review.* The board of the authority may initiate review of a proposed decision on its own motion at any time within 30 days following the issuance of such a decision.

7.27(3) *Notice of appeal.* An appeal of a proposed decision is initiated by filing a timely notice of appeal with the authority. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. If a member of the authority's board or the authority initiates review of a proposed decision, the executive director shall mail a notice of review to all parties. The notice of appeal or the notice of review shall specify:

a. The parties initiating the appeal;

b. The proposed decision or order appealed from;

c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;

d. The relief sought;

e. The grounds for relief.

7.27(4) *Requests to present additional evidence.* A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The board of the authority may remand a case to the presiding officer for further hearing or may itself preside at the taking of additional evidence.

7.27(5) *Scheduling.* The authority shall issue a schedule for consideration of the appeal.

7.27(6) *Briefs and arguments.* Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The authority may resolve the appeal on the briefs or provide an opportunity for oral argument. The authority may shorten or extend the briefing period as appropriate.

265—7.28(17A) Applications for rehearing.

7.28(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

7.28(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the authority decision on the existing record and whether, on the basis of the grounds enumerated in subrule 7.27(4), the applicant requests an opportunity to submit additional evidence.

7.28(3) *Time of filing.* The application shall be filed with the authority within 20 days after issuance of the final decision.

7.28(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the authority shall serve copies on all parties.

7.28(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the authority grants the application within 20 days after its filing.

265—7.29(17A) Stays of authority actions.

7.29(1) *When available.*

a. Any party to a contested case proceeding may petition the authority for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the authority. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The authority may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the authority for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

7.29(2) *When granted.* In determining whether to grant a stay, the presiding officer or authority shall consider the factors listed in 1998 Iowa Acts, chapter 1202, section 23(5c).

7.29(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the authority or any other party.

265—7.30(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

265—7.31(17A) Emergency adjudicative proceedings.

7.31(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare and, consistent with the Constitution and other provisions of law, the authority may issue a written order in compliance with 1998 Iowa Acts, chapter 1202, section 21, to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the authority by emergency adjudicative order. Before issuing an emergency adjudicative order the authority shall consider factors including, but not limited to, the following:

a. Whether there has been a sufficient factual investigation to ensure that the authority is proceeding on the basis of reliable information;

b. Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;

c. Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;

d. Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and

e. Whether the specific action contemplated by the authority is necessary to avoid the immediate danger.

7.31(2) *Issuance of order.*

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the authority's decision to take immediate action.

b. The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:

(1) Personal delivery;

(2) Certified mail, return receipt requested, to the last address on file with the authority;

(3) Certified mail to the last address on file with the authority;

(4) First-class mail to the last address on file with the authority; or

(5) Fax. Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that authority orders be sent by fax and has provided a fax number for that purpose.

c. To the degree practicable, the authority shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

7.31(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the authority shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

7.31(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the authority shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which the authority's proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further authority proceedings to a later date will be granted only in compelling circumstances upon application in writing.

265—7.32(17A,16) Informal procedure prior to hearing. Any person who desires to pursue informal settlement of any contested case may make a request for an informal settlement to the executive director. When the authority is a party, all informal settlements shall be made by the executive director. All informal settlements are subject to ratification by the authority. A request for informal settlement should be received by the executive director not less than 15 days before the board meeting at which it is to be considered. The executive director shall schedule consideration of the request at the next regular board meeting occurring more than 15 days after the request for an informal settlement is made. Not more than 10 days after the authority meeting at which the request is scheduled for consideration, the executive director will notify the petitioner in writing of the authority's disposition of the request. If the authority determines that a conference is appropriate, the party will be notified when, where, and with whom such a conference is to be held. The terms of any settlement agreed to by the parties shall be embodied in a written stipulation. Upon receipt of the request, all formal contested case procedures are stayed, except in the case of emergency orders as provided in rule 265—7.31(17A). If informal settlement is unsuccessful, formal contested case proceedings may be instituted in accordance with rule 265—7.5(17A).

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 8
PRIVATE ACTIVITY BOND ALLOCATION

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—8.1(7C) General. The governor has appointed the executive director of the Iowa finance authority as the governor's designee responsible for administration of the law which establishes procedures for allocation of private activity bonds as defined in Section 141 of the Internal Revenue Code. Procedures set out in the law and in these rules shall be followed in allocating the private activity bond state ceiling ("state ceiling") between cities, counties and the state of Iowa.
[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.2(7C) Forms and applications. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority at the address set forth in rule 265—1.3(16) or on the website at iowafinanceauthority.gov. The telephone number of the authority is (515)725-4900. The facsimile number of the authority is (515)725-4901.

8.2(1) An issuer or beneficiary, or the duly authorized agent of an issuer or beneficiary, must make an application by filing the form, available from the governor's designee, entitled "Private Activity Volume Cap Application" for the allocation of a portion of the private activity bond state ceiling allocated pursuant to Iowa Code chapter 7C. Applications may be submitted electronically or via email or facsimile. An application for current year allocation or carryforward allocation may be submitted at any time.

8.2(2) An application for allocation may be made only after the governing body of an issuer has adopted a resolution evidencing an intent to issue the bonds.

8.2(3) An application must be accompanied by the application fee set forth in rule 265—8.10(7C), and all required attachments to the application must be submitted before such application is considered for allocation under rule 265—8.5(7C).

8.2(4) An application for allocation for industries under Iowa Code section 7C.4A(5) is limited to $10 million per project per calendar year.

8.2(5) The state ceiling allocated under Iowa Code sections 7C.4A(4), 7C.4A(5), 7C.4A(6) and 7C.4A(7) shall be allocated among all issuers as provided in rules 265—8.3(7C) and 265—8.4(7C).

This rule is intended to implement Iowa Code sections 7C.4, 7C.5 and 7C.6.
[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.3(7C) Applications for current allocation received prior to the calendar year for such allocation.

8.3(1) Applications for any given calendar year may be submitted to the Iowa finance authority offices during the month of December of the preceding year with a request that the application be treated as received when the Iowa finance authority opens for business on the first business day of the calendar year for which the application is made. Applications submitted in this manner must be clearly marked on the first page of such application with words such as: "This application for private activity bond allocation for year 2018 is to be held for constructive delivery and receipt by the Iowa finance authority upon the opening of business on the first business day of calendar year 2018." There may be only one application for each separate project. All applications so received with the application fee and any required documentation attached will be deemed received simultaneously by the Iowa finance authority on the first business day of the calendar year for which application is made. Expired applications made in previous years may be resubmitted to the authority pursuant to this procedure.

8.3(2) If the total amount of allocations requested in all of the complete applications received pursuant to subrule 8.3(1) that seek (a) allocations for first-time farmers pursuant to Iowa Code section 7C.4A(4), (b) allocations for industries pursuant to Iowa Code section 7C.4A(5), or (c) allocations of private activity bonds issued by political subdivisions pursuant to Iowa Code section 7C.4A(6) exceed the amount of state ceiling available for the respective purpose, the applications for each applicable purpose will be considered for allocation in the order determined pursuant to the procedures set forth in subrule 8.3(3).

8.3(3) In order to determine the order of allocation of the state ceiling to each of the applications for first-time farmer purposes, for industrial purposes or for political subdivisions that are simultaneously received pursuant to subrule 8.3(1), each application for the applicable purpose shall be assigned a preference number determined by a random drawing for allocation for such purpose conducted at approximately 10 a.m. on the first day of business of the calendar year at the Iowa finance authority offices. Any person desiring to attend and witness the drawing and assigning of preference numbers may do so. Each application for a specified purpose shall be assigned an identification code that shall be written on the first page of the application. The identification codes for applications for a specified purpose shall be written on strips of paper and placed in individual envelopes and sealed. The sealed envelopes containing identification codes for each application for the specified purpose shall be placed in separate containers, mixed, and drawn from the applicable container at random by a member of the authority's staff. The application corresponding with the identification code that is drawn first shall be placed first on the list of applicants to receive an allocation of the state ceiling for such purpose. The application corresponding with the identification code that is selected second shall be placed second on the applicable list, and so forth. Drawings shall continue until all applications for each specified purpose are assigned a place on the list of applications for such purpose received.

This rule is intended to implement Iowa Code sections 7C.4A(7)*"a"* and 7C.5.

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.4(7C) Application for current allocation received during the calendar year.

8.4(1) Applications for current allocation for any given calendar year may be submitted to the Iowa finance authority offices at any time during the calendar year.

8.4(2) Complete applications received during the calendar year will be allocated for each applicable purpose (other than applications for which the Iowa finance authority determines, in its sole discretion, to make an allocation under Iowa Code section 7C.4A(1)*"a"*(4) pursuant to subrule 8.5(3) and subject to subrule 8.5(2)) in the order such application is received.

This rule is intended to implement Iowa Code sections 7C.4A and 7C.5.

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.5(7C) Certification of current allocation.

8.5(1) The governor's designee shall maintain separate lists of applications for private activity bonds for the purpose of industries, for private activity bonds for the use of political subdivisions, and for allocation pursuant to Iowa Code section 7C.4A(7). If there are additional applications after the state ceiling for the purpose of industries is fully allocated and, before June 30, the state ceiling for the use of political subdivisions is fully allocated to applications, all applications that have not been allocated any state ceiling will be placed on the list for allocation pursuant to Iowa Code section 7C.4A(7) in the chronological order of receipt without regard to the purpose for which such applications were made.

8.5(2) The governor's designee shall promptly certify to the issuer the amount of the state ceiling allocated to the bonds for the purpose of the project for which the application was submitted, in the order as determined by Iowa Code chapter 7C and rules 265—8.3(7C) and 265—8.4(7C). The governor's designee shall continue to allocate the state ceiling for each purpose separately (or, if the allocation is made under Iowa Code section 7C.4A(7), in the chronological order of applications received) until all the available state ceiling for that purpose is fully allocated. A project receiving an allocation made under Iowa Code section 7C.4A(7) is limited to $50 million in any calendar year. If there is not sufficient available state ceiling to fully fund an application which is next in order for allocation, the governor's designee shall notify the applicant of the amount that is available and the applicant shall have the option to take what is available within five calendar days of receiving notice of availability. If the applicant does not notify the governor's designee of its decision to take the available allocation within five calendar days of receiving notice of that option, the available state ceiling shall be offered to the next application on the list under the same conditions, and the initial offeree will maintain its position on the list. If the partial allocation is accepted, the applicant may submit a new application for additional state ceiling and that application will be added to the bottom of the applicable list in the chronological order of its receipt.

8.5(3) If the bonds are issued and delivered prior to the expiration date of the allocation, then the issuer or the issuer's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee by filing the form captioned "Private Activity Volume Cap Notice of Issuance and Delivery of Bonds."

8.5(4) Upon receipt of a complete application for allocation for a qualified residential rental project, the bonds for which will be issued by the Iowa finance authority, the Iowa finance authority may determine in its sole discretion to allocate a portion of its allocation under Iowa Code section 7C.4A(1)*"a"*(4) to such application. If the Iowa finance authority determines in its sole discretion to make such a certification of allocation, the Iowa finance authority has the sole discretion to determine the amount and order of such certification of each such allocation.

This rule is intended to implement Iowa Code sections 7C.4A and 7C.5.

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.6(7C) State ceiling carryforwards. In the event the aggregate principal amount of bonds issued by all issuers in a calendar year is less than the state ceiling for that calendar year, then an issuer or beneficiary may apply to the governor's designee for an allocation of a specified portion of the excess state ceiling to be applied to a specified carryforward project. The application must be in writing and shall comply with the carryforward provisions of Section 146(f) of the Internal Revenue Code and regulations promulgated under that section. Any carryforward allocation that has not expired under Section 146 of the Internal Revenue Code released by the original applicant may be allocated to any other applicant for allocation for the same purpose for which the original application was made.

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.7(7C) Expiration of applications and allocations.

8.7(1) All applications for current allocation received in any calendar year shall expire 120 days after the date of certification of allocation; provided that, before the expiration of the 120-day period, the issuer or beneficiary may make a request in writing to the governor's designee for an extension of not more than 30 days after the expiration of the 120-day period. Such request for extension shall be accompanied by an agreement among the issuer, the proposed purchaser of the bonds, and the beneficiary showing an intent of the proposed purchaser to purchase the bonds.

8.7(2) If the expiration date of either the 120-day period or any 30-day extension period is a Saturday, Sunday or any day on which the offices of the state banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or previously described day.

8.7(3) All applications for current allocation received in any calendar year which do not otherwise expire under subrules 8.7(1) and 8.7(2) shall expire as of December 24 of that year except for applications for current year allocation for bonds described in Iowa Code section 7C.11, which expire on December 31 of that year.

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.8(7C) Resubmission of expired allocations. If an allocation expires, the issuer may resubmit its application for the same project or purpose. However, the resubmitted application shall be treated as a new application, and preference, priority or prejudice shall not be given to the application or the issuer as a result of the prior application.

265—8.9(7C) Use by political subdivisions. With respect to the amount of the state ceiling allocated for the purpose of private activity bonds issued by political subdivisions, the proceeds of which are used by the issuing political subdivisions under Iowa Code section 7C.4A(6), the political subdivision must use the proceeds to finance a project owned or utilized directly by the political subdivision, or finance a program of the political subdivision which the legislature by statute has authorized or directed the political subdivision to implement.

This rule is intended to implement Iowa Code section 7C.4A(6).

[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.10(7C) Application and allocation fees. The Iowa finance authority may charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the private activity bond state ceiling in accordance with these rules. A fee of 2 basis points (.02%) of the amount of state ceiling for which application is made shall be paid by the applicant upon filing the application with the governor's designee.
[**ARC 4210C**, IAB 1/2/19, effective 2/6/19]

265—8.11(7C) Supplemental cap allocation for 2008. Rescinded **ARC 4210C**, IAB 1/2/19, effective 2/6/19.

These rules are intended to implement Iowa Code chapter 7C.

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CHAPTER 9
TITLE GUARANTY DIVISION

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/23/30

265—9.1(16) Definitions. The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

"Abstract" means a written or electronic summary of all matters of record affecting title to a specific parcel of real estate prepared in accordance with abstract minimum standards adopted by the division, provided however, that for nonpurchase transactions, "abstract" may also mean a written or electronic short-form summary setting forth the titleholders, liens, and encumbrances in accordance with guidelines adopted by the division.

"Abstractor" means a person who is engaged in the practice of searching public records for the purpose of creating abstracts.

"Authority" means the Iowa finance authority established by Iowa Code chapter 16.

"Certificate" means the form used to guarantee title, including any part or schedule thereof and any endorsements thereto.

"Claim" means loss or damage or potential loss or damage arising by reason of a matter actually, possibly, or allegedly within the coverage of a commitment, certificate, closing protection letter, mortgage release certificate, or by reason of any other matter for which the division is actually, possibly, or allegedly liable.

"Claim loss" means amounts paid by the division in the investigation and resolution of a claim including, but not limited to, payments to the guaranteed, payments to adverse claimants, attorneys' fees, and all other expenses and costs related to or arising from the claim.

"Closing protection letter" means the division's written agreement to indemnify a lender or borrower or both for loss caused by a participating closer's theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the participating closer.

"Commitment" means the division's written offer to issue a certificate and any endorsements thereto.

"Division" means Iowa title guaranty, a division of the authority.

"Division board" means the board of the division created pursuant to Iowa Code section 16.2A(1).

"Field issuer" means a participant authorized by the division to issue commitments and certificates.

"Mortgage release certificate" means a certificate of release or a certificate of partial release issued by the division, pursuant to Iowa Code section 16.92.

"Participant" means a participating attorney, a participating abstractor, or a participating closer.

"Participating abstractor" means an abstractor who is authorized by the division to prepare abstracts for division purposes.

"Participating attorney" means an attorney licensed to practice law in the state of Iowa who is authorized by the division to prepare title opinions for division purposes.

"Participating closer" means any of the following authorized by the division to issue a closing protection letter: an Iowa licensed attorney disbursing funds through an interest on lawyer trust account, a closing agent licensed by the Iowa division of banking, or a real estate broker licensed by the Iowa real estate commission disbursing funds through a real estate trust account.

"Party" means a participant, or any other person, who has a contractual relationship with the division to provide services for which a claim may be brought against the division.

"Person" means an individual or legal entity, including corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.2(16) Mission. The mission of the division is to operate a program that offers guaranties of real property titles in order to provide, as an adjunct to the abstract-attorney's title opinion system, a low-cost

mechanism to facilitate mortgage lenders' participation in the secondary market and add to the integrity of the land-title transfer system in the state of Iowa and to perform other duties as assigned by Iowa law.
[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.3(16) Organization.

9.3(1) *Location.* The office of the division is located at the address set forth in rule 265—1.3(16). Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The division's website address is www.iowatitleguaranty.com, and the division's telephone number is 515.452.0484. The division's email address is titleguaranty@iowafinance.com. Inquiries, submissions, applications and other requests for information may be directed to the division by the methods set forth herein.

9.3(2) *Meetings.* Meetings of the division board will generally be held quarterly on the date and time determined by the division board, or in accordance with Iowa Code section 16.2A(6). The division will give advance public notice of each division board meeting pursuant to Iowa Code chapter 21. Division board meetings may be conducted by conference call. Any person may attend and observe division board meetings except for any portion of a division board meeting that may be closed pursuant to Iowa Code section 21.5. The minutes of the division board meetings are available at the office of the division and on the division's website. A board member who has a conflict of interest may not vote on substantive actions of the division board.
[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.4(16) Operation. The division offers guaranties of real property titles in the state through the issuance of commitments and certificates.

9.4(1) *Commitments, certificates, forms and manuals.* The terms, conditions, and form of commitments and certificates shall be approved by the division board. The division may adopt and use manuals and other forms as the division deems necessary for implementation and administration of the title guaranty program.

a. The division will provide forms to a participant for use in issuing commitments and certificates on behalf of the division. A participant may not alter any form supplied by the division or use a form supplied by another person to bind the division. In addition, the participant shall not transfer or attempt to transfer unissued commitments or certificates to another participant or other person unless authorized in writing by the division.

b. In addition to the division's other rights and remedies, the division may refuse to allow the participant access to any forms until the participant complies with the requirements of this chapter to the satisfaction of the division.

c. A participant shall be liable to the division for loss or damage sustained by the division by reason of the failure of the participant to comply with the requirements of this rule.

9.4(2) *Application for commitments and certificates.* The division will make an application for commitments and certificates available on the division's website.

9.4(3) *Rates.* Rates for commitments, certificates and closing protection letters shall be set pursuant to Iowa Code section 16.91(1). In transactions involving extraordinary risk or unusual or unique endorsements, the division may assess additional charges.
[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.5(16) Participants.

9.5(1) *General provisions.* An applicant shall submit a participant application and the first year's annual fee and shall sign a participation agreement in order to be authorized to provide one or more services on behalf of the division.

9.5(2) *Participant application.* Applications for participation and renewal are available on the division's website. An applicant shall submit an application to provide one or more services on behalf of the division. If the applicant is approved as a participant, the participant is required to submit a renewal application annually.

9.5(3) *Eligibility considerations.* To determine whether to approve or deny a participant application, factors the division may consider include but are not limited to the following:

a. The needs of the public and the needs of existing or potential customers of the applicant.

b. A history of the operation and management of the applicant's business.

c. The character, fitness, financial responsibility and experience of the applicant and the applicant's employees.

d. A credit report or criminal background check of the applicant or the applicant's employees.

e. A record of default in the payment of moneys collected for others by the applicant or the applicant's employees.

f. A history of discharge of debts by the applicant or the applicant's employees through bankruptcy proceedings.

g. Compliance with the title and settlement best practices adopted by the division.

h. Other factors as determined by the division.

9.5(4) *Participation agreement.* The participation agreement sets forth the contractual relationship between the participant and the division. A new participation agreement is executed annually and when otherwise required by the division.

9.5(5) *Annual fee.* A participant may be required to pay an annual fee of $75, set pursuant to Iowa Code section 16.91(4).

9.5(6) *Agent relationship.* A participant is only authorized to act as an agent of the division for the purposes and in the manner set forth in the participant's participation agreement, the Iowa Code, these rules, manuals and any other written instructions given by the division. The authority of a participant to act as an agent of the division is not exclusive and is subject to the rights of the authority, the division, and other participants, agents, or representatives of the division.

9.5(7) *Conflict of interest.* A participant shall not, without prior authorization of the division, prepare an abstract or issue a title opinion, commitment, certificate, or closing protection letter for a transaction in which the participant has a personal or financial interest in the real estate that is the subject of that transaction.

9.5(8) *Clearance of title objections.* All title objections must be cleared in accordance with applicable division manuals and any other written instructions given by the division prior to the issuance of a certificate. Any underwriting determination about which there may be a bona fide difference of opinion among attorneys, which is not specifically addressed by division manuals or instructions, shall be approved by the division in writing.

9.5(9) *Commitment and certificate coverage limitations.* A field issuer shall obtain written authorization from the division prior to issuing a commitment or certificate that exceeds the allowable maximum amount of coverage, as determined by the division. If authorization under this subrule is not obtained through the act or omission of the field issuer, the field issuer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment, closing protection letter, or certificate.

9.5(10) *Document retention.* A participant shall maintain transaction files in such a manner that information pertaining to activities of the participant is readily available to the division while protecting confidential client information. A participant shall retain files for a period of ten years after the issued date of the certificate or the issued date of the commitment if a certificate is not issued.

9.5(11) *Training.* The division may require a participant and the participant's staff to participate in training sessions or continuing education seminars as deemed necessary by the division to ensure compliance with division requirements and procedures.

9.5(12) *Compliance.* Participants shall comply with the Iowa Code, these rules, the participation agreement, manuals, and any other written instructions given by the division. The division may audit the participant, with or without notice, for verification of compliance. An audit may include but not be limited to a review of the participant's abstracts, title opinions, commitment and certificate issuance procedures, a test of title plants and tract indices, and a review of closing policies and procedures and escrow account details.

9.5(13) *Revocation.* The division may revoke a participant's authorization to provide services on behalf of the division for reasons, including but not limited to the following:

a. Failure to comply with the terms and conditions of the participation agreement.

b. Failure to submit an annual renewal application.

c. Knowingly withholding or misrepresenting material facts relied upon by the division.

d. Fraud, theft, dishonesty, or misappropriation of funds or documents.

e. Deterioration of the participant's financial condition adversely affecting the participant's ability to provide services on behalf of the division.

f. A finding by the division director of material noncompliance with the Iowa Code, these rules, manuals, and any other written instructions given by the division.

g. Other factors as determined by the division.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.6(16) Services offered.

9.6(1) *Abstracting.* Abstracts utilized for division purposes must be prepared by a participating abstractor.

a. Title plant. A participating abstractor shall own and maintain, or lease and use, a title plant, including tract indices for each county in which that participating abstractor prepares abstracts for division purposes, unless exempt under Iowa Code section 16.91(5)*"a"*(2) and paragraph 9.6(1)*"c"* or authorized under Iowa Code section 16.91(5)*"b"* and paragraph 9.6(1)*"d."* Each of the tract indices shall be designated to encompass a geographical area of not more than one block in the case of platted real estate, nor more than one section in the case of unplatted real estate. The tract indices shall include a reference to all of the instruments affecting real estate recorded in the office of the county recorder, and the tract indices shall commence not less than 40 years prior to the effective date of the abstractor's participation in the title guaranty program. A government-maintained and -controlled database is not considered a title plant for division purposes.

b. Intent to build title plant. The division may authorize an abstractor who is building or who intends to build a title plant to prepare abstracts for division purposes, upon review of the following:

(1) The abstractor's business plan;

(2) Evidence that a title plant will be built for a specific county or counties within three years of authorization;

(3) A timeline for completion of the title plant; and

(4) A description of the applicant's abstracting experience.

c. Exemption. The exemption available pursuant to Iowa Code section 16.91(5)*"a"*(2) is unique to the participating attorney, is nontransferable, and terminates at such time as the participating attorney ceases providing abstracts for division purposes or upon the death or incapacity of the participating attorney.

d. Title plant waivers. The division recognizes the 40-year title plant as the preferred method of providing title evidence for the purpose of issuing commitments and certificates. The division must weigh the benefits of the traditional title plant with other alternatives to ensure buyers and lenders a high quality of certificates throughout the state, rapid service, and a competitive price.

(1) General provisions. The division shall consider an application for a title plant waiver upon submission by an attorney or an abstractor.

(2) Submission of application. The division shall accept applications in the same manner as provided in subrule 9.5(2).

(3) Content of application. The applicant must provide, at a minimum, the following information:

1. The name, business address, email address, and telephone number of the applicant;
2. The applicant's business plan;
3. The county or counties in which the applicant intends to abstract;
4. A description of the applicant's abstracting experience;
5. Samples of abstracts prepared by the applicant;
6. A history of any professional disciplinary action against the applicant;
7. Professional references in support of the applicant;
8. The relevant facts that the applicant believes would justify a waiver under Iowa Code section 16.91(5)*"b"*; and
9. A signed statement from the applicant attesting to the accuracy of the facts provided in the application.

(4) Notification and response.

1. The division shall notify the applicant upon receipt of a complete application.

2. The Iowa State Bar Association and Iowa Land Title Association shall be provided notice of an application. Provision of the notice to the identified associations is not a requirement for the division to consider the application, and failure to inform an interested person of an application shall not void or otherwise nullify any action or decision of the division.

(5) Conditions. A waiver is unique to the recipient and is nontransferable. The division may limit a waiver as to county, transaction type, duration, or any other limitation. The division may require a waiver recipient to provide a guarantee, performance bond, or other form of indemnification as assurance for abstracts prepared by the waiver recipient on behalf of the division. The division may review the waiver annually and may require a renewal, modification or addition to any required assurances. An applicant may only retain a waiver if the applicant continues to meet the requirements for a participant in rule 265—9.5(16). If the waiver recipient fails to meet the terms of the recipient's participation agreement, the waiver may be withdrawn by the division.

(6) Withdrawal of a waiver. A waiver issued by the division may be withdrawn or modified if, after public notice and division board meeting, the division board issues a written ruling finding any of the following:

1. That the waiver recipient knowingly withheld or misrepresented material facts relied upon by the division in granting the waiver; or

2. That the waiver recipient failed to comply with all conditions contained in the written ruling; or

3. That the abstracts prepared by the waiver recipient fail to meet the abstract minimum standards adopted by the division; or

4. That the division has revoked the waiver recipient's authorization to provide services on behalf of the division pursuant to subrule 9.5(13).

The decision of the division board shall be final agency action, and all appeals shall be filed with the Iowa District Court for Polk County.

9.6(2) *Issuing title opinions.*

a. All title opinions shall be prepared by participating attorneys and issued in compliance with division procedures as specified in manuals and any other written instructions given by the division.

b. A participating attorney who is a field issuer may issue a commitment as the preliminary title opinion and the certificate as the final title opinion.

c. A participating attorney shall be licensed to practice law in the state of Iowa and shall be in good standing with the Iowa supreme court at all times while acting as an agent of the division.

9.6(3) *Issuing commitments and certificates.* Pursuant to a participation agreement with the division, a participant may be authorized to issue a commitment or certificate on behalf of the division. A participant's right to issue commitments and certificates is a privilege for the convenience of the division and may be terminated pursuant to terms of the participation agreement.

9.6(4) *Issuing closing protection letters.*

a. Pursuant to a participation agreement with the division, a participant may be authorized to issue a closing protection letter on behalf of the division.

b. The division may require the participating closer to provide an irrevocable letter of direction to the institution at which each escrow account is established, authorizing the division to review and audit the institution's records of such account at any time that the division, in its discretion, deems necessary.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.7(16) Claims.

9.7(1) *Claim procedures.* In the event of a claim, the rights of the division and a party are as follows:

a. Upon receipt of notice by a party of a claim, the party must notify the division in writing within three business days of receipt of information about a claim by the party and shall mail notification to the division by first-class mail at the division's address as set forth in rule 265—1.3(16) or provide notification by email.

b. When a party receives a request from the division for information with respect to a claim, the party shall supply to the division any documents, correspondence, surveys, abstracts of title, title searches, title

opinions, other writings, or other information known by or available to the party and relevant to the claim, even if not specifically requested by the division.

c. A party shall cooperate fully in the investigation and resolution of a claim and shall supply any additional, new information that may come to the party's attention with such promptness as the circumstances permit.

d. The division may, with or without prior notice to the party or parties involved, investigate and resolve any claim in any manner that, in the division's sole discretion, the division may deem advisable.

9.7(2) *Claim loss recovery.*

a. Any claim losses paid are recoverable from a party by the division.

b. In the absence of knowledge by the party about the title defect or other matter causing the claim loss, the division shall not seek recovery from the party when a claim loss arises from one or more of the following:

(1) Hidden defects, including but not limited to forged deeds and mortgages, false affidavits, and false statements of marital status;

(2) Errors by public officials in maintaining and indexing the public records, including but not limited to errors by county assessors, recorders, clerks, and treasurers;

(3) Errors in these rules, manuals, and any other written instructions given by the division that the party relies upon in issuing an abstract, title opinion, commitment, closing protection letter or certificate;

(4) Errors in surveys provided by registered Iowa land surveyors that the party relies upon in issuing a certificate that provides survey coverage; or

(5) Underwriting determinations or title risks approved by the division prior to issuance of the abstract, title opinion, commitment, closing protection letter, or certificate.

c. The party shall reimburse the division for a claim loss when the division determines, in accordance with paragraph 9.7(2)*"d,"* that the party is liable and when the claim loss arises from one or more of the following:

(1) Errors by the party in the preparation of an abstract or any other report of information in the public record;

(2) Reliance by the party upon sources of title searches and other title information that had not been approved by the division at the time of the reliance;

(3) Errors made by the party in examining the title information provided in an abstract, survey, affidavit, or other source of title information;

(4) Errors made by the party in the preparation or review of an abstract, title opinion, commitment, closing protection letter, or certificate;

(5) Issuance of an abstract, title opinion, commitment, closing protection letter or certificate by the party with knowledge that title is defective; or

(6) Failure of the party to follow the Iowa Code, these rules, manuals, or any other written instructions given by the division.

d. Unless another rule, the Iowa Code, manuals, or any other written instruction given by the division provides for a different standard of liability or other rule for determining whether the party shall be liable for a claim loss, the division shall apply the following standards:

(1) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)*"c"*(1), the division may demand reimbursement from the party if the party was grossly negligent in preparing the abstract. Gross negligence includes the failure to make a search or the use of inadequate search procedures. Gross negligence under the preceding sentence includes but is not limited to failure to search certain indices, failure to search all names of parties with an interest in the real estate, or failure to search in all public offices required by the division search procedures or procedures used by prudent title searchers if the division has not established specific search procedures. In making its determination whether to seek recovery, the division may consider the complexity of the public record, the reliance of the party upon division-approved search procedures, the training and experience of the person who made the error, and the existence or nonexistence of previous search errors by the party.

(2) In the event that a claim loss occurs for which the division may seek recovery from a party under subparagraph 9.7(2)*"c"*(2), the division may demand reimbursement from that party if the party relied

upon sources of abstracts or other title information that had not been approved by the division at the time of the reliance.

(3) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)*"c"*(3), the division may demand reimbursement from the party if the party negligently examined the title information used in making a title determination, failed to raise an appropriate exception, waived an exception, or endorsed a commitment or certificate.

1. The division may make full review of local county abstracting standards and title standards as a guide to determine whether the party has failed to meet the standard of skill and competence of an abstractor who prepares an abstract or an attorney who examines titles in the community where the claim arose.

2. The division may also consider whether the party followed the Iowa Code, these rules, manuals, or any other written instructions given by the division in examining the title.

3. In addition, the division may seek input from other parties in the community in which the claim arose as to the standard of care of an abstractor who prepares an abstract or of an attorney who examines titles in that community.

(4) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)*"c"*(4), the division may demand reimbursement from the party if the party negligently prepared or reviewed an abstract, title opinion, commitment, closing protection letter, or certificate.

(5) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)*"c"*(5), the division may demand reimbursement from the party if the issuance of the abstract, title opinion, commitment, closing protection letter, or certificate constituted fraud, concealment or dishonesty, or if the issuance of the abstract, title opinion, commitment, closing protection letter or certificate was based upon an underwriting decision on an unusual risk that was made without contacting the division for approval.

(6) In the event that a claim loss occurs for which the division may seek recovery from the party under subparagraph 9.7(2)*"c"*(6), the division may demand reimbursement from the party if the party failed to follow the Iowa Code, these rules, manuals, or any other written instructions given by the division with respect to the matter causing the claim loss.

(7) In the event the division seeks reimbursement from a party, the division shall state the basis of the reimbursement.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.8(16) Mortgage release certificate. Pursuant to Iowa Code section 16.92, the division is charged with the administration of a program to release, after proper notification, paid-off mortgages from real estate titles in Iowa by executing and filing with the county recorder a mortgage release certificate.

9.8(1) *Application.* The division will provide a mortgage release application on the division's website.

9.8(2) *Application fee.* An applicant may be required to pay a fee of $200 to apply for a mortgage release certificate. The fee shall be set by the division.

9.8(3) *Maximum principal amount of mortgage.* The division board may set a maximum principal amount for mortgages that may be released by a mortgage release certificate.

9.8(4) *Authority to sign certificate.* A mortgage release certificate shall be executed by the division director or designee of the division director.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

265—9.9(16) Rules of construction. In this chapter, the following rules of construction shall be observed:

1. The word "shall" means mandatory and not permissive and the word "may" means permissive and not mandatory.

2. Nothing contained in this chapter shall be construed to require a participating attorney to disclose privileged information of a client to the division or to any other person.

3. Any rule that provides a specific remedy or sanction for violation of the rule shall not be construed as limiting the ability of the division to pursue and enforce other remedies or sanctions under this chapter, or otherwise against a participant or other person responsible or liable, either separately, concurrently, cumulatively, or in any combination, at the sole discretion of the division.

4. The failure of the division to enforce a right or remedy under this chapter, a statute, or common law shall not be construed as a waiver of such right or remedy either in the specific instance or in any other instance.

[**ARC 9030C**, IAB 3/19/25, effective 4/23/25]

These rules are intended to implement Iowa Code sections 16.2A, 16.4C, 16.5, 16.90 through 16.93, 17A.10 and 535.8.

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◊ Two or more ARCs

1 Effective date of 9.7(2), definition of "Title plant" delayed 70 days by the Administrative Rules Review Committee at its meeting held December 9, 2008.

2 June 1, 2016, effective date of the rescission of former 9.1 to 9.22 and the adoption of new 9.1 to 9.11 [ARC 2506C] delayed until the adjournment of the 2017 General Assembly by the Administrative Rules Review Committee at its meeting held May 10, 2016.

CHAPTER 10
MORTGAGE CREDIT CERTIFICATES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—10.1(16) General. Mortgage credit certificates (MCCs) were authorized by Congress in the 1984 Tax Reform Act as a new concept for providing housing assistance. The Iowa finance authority may elect to allocate a portion of its mortgage revenue bonding authority for single-family housing toward an MCC program. The program will be made available to home buyers through participating Iowa lenders on a first-come, first-served basis.

The MCC operates as a federal income tax credit. The MCC tax credit will reduce the federal income taxes of qualified home buyers purchasing qualified residences, in effect assisting buyers with their house payments.

A purchaser of a new or existing single-family residence may apply for an MCC through a participating lender at the time of purchasing a home and obtaining financing through the lender. An MCC cannot be issued to a home buyer who is refinancing an existing mortgage or land contract, nor can it be used in conjunction with a mortgage financed through a mortgage subsidy bond.

MCCs will be made available to home buyers with generally the same noncredit eligibility requirements as are in effect for the authority's single-family mortgage program. However, mobile and manufactured housing are eligible under the MCC program.

265—10.2(16) Participating lenders. The authority will disseminate a summary of the MCC program to mortgage lenders operating within Iowa. Each branch office of a mortgage lender is deemed to be a separate mortgage lender. Any mortgage lender as defined in Iowa Code section 16.1 may become a participating lender by entering into an MCC lender participation agreement with the authority. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement. The authority shall set and post on its Web site annual participation fees to be paid by participating lenders as a condition of participating in the MCC program.
[**ARC 1845C**, IAB 2/4/15, effective 3/11/15]

265—10.3(16) Eligible borrowers. To be eligible to receive a mortgage credit certificate, an eligible borrower must, on the date the loan is closed:

1. Be a resident of Iowa.
2. Be a purchaser of a single-family residence who will occupy the single-family residence as a permanent, primary, principal residence located within the state.
3. Have the legal capacity to incur the obligations of the loan.
4. Agree not to rent the single-family residence any time during the term of the loan except under special circumstances and with a lease arrangement, the terms and conditions of which are acceptable to the authority.
5. To the extent determined by the authority to assure its MCCs will be qualified mortgage credit certificates pursuant to a qualified mortgage credit certificate program, the authority shall require that the eligible borrower meet the requirements of Section 25 of the Internal Revenue Code and the rules and regulations promulgated thereunder, as well as the requirements set forth in the MCC program guide. Copies of the program guide are available from the authority.

265—10.4(16) MCC procedures. Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 265—10.3(16). If the eligibility requirements are met, the participating lenders may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds. If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those

available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee, which may be paid by the borrower, lender, or any other party. An MCC program application fee must accompany the MCC application and be submitted to the authority by the lender. The amount of the maximum allowable MCC commitment fee and the amount of the MCC program application fee shall be set by the authority from time to time and posted on the authority's Web site.

No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

[**ARC 1845C**, IAB 2/4/15, effective 3/11/15]

These rules are intended to implement Iowa Code section sections 16.5(1)*"e,"*16.5(1)*"m,"* and 16.36.

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CHAPTER 11
IOWA MAIN STREET LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/30

265—11.1(16) Definitions. As used in connection with the Iowa main street loan program, the following terms have the meanings indicated.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Commercial property" means property formerly or currently used primarily for business, retail, governmental or professional purposes.

"Downtown area" means the business area of a community that is centrally located within the community within the context of the Iowa main street program.

"Housing" means the same as defined in Iowa Code section 16.1(14).

"Infill development" means new construction on a vacant commercial lot currently held as open space.

"Participating city" means a city participating in the Iowa main street program.

"Upper floor housing" means any housing that is attached to or contained in the same building as commercial property, whether located on the ground floor behind the traditional storefront or on other floors of the property.

[**ARC 8413C**, IAB 11/27/24, effective 1/1/25]

265—11.2(16) Public benefit. Projects are approved for an Iowa main street loan if they demonstrate one of the following public benefits:

1. Rehabilitation of upper floor housing or commercial properties or new construction development on infill vacant lots located in the downtown area of a participating city;
2. Housing in downtown areas located in a participating city; or
3. Stimulation of downtown area economic development within the context of historic preservation of the downtown area in a participating city.

[**ARC 8413C**, IAB 11/27/24, effective 1/1/25]

265—11.3(16) Loan terms.

11.3(1) *Amount of loans.* The principal amount of each loan is between $50,000 and $250,000.

11.3(2) *Term of loan.* Loans are amortized over not more than 30 years; the actual term of the loan is determined by the authority depending on the economic feasibility of the project.

11.3(3) *Interest rate.* Interest is charged on the loan at a rate related to the authority's cost of funds for the loan term as determined and announced by the authority from time to time.

11.3(4) *Loan fee.* The authority may charge a fee in the amount of 1 percent of the initial loan amount at closing.

[**ARC 8413C**, IAB 11/27/24, effective 1/1/25]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.51.

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CHAPTER 12
LOW-INCOME HOUSING TAX CREDITS

Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 13
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/23/30

265—13.1(16,22) Definitions. As used in this chapter:

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Confidential records" means records, as identified in Iowa Code section 22.7 or any other provision of law, that are not disclosed to members of the public unless otherwise ordered by a court, by the custodian of the records, or by another person duly authorized to release the records. A record may be partially or wholly confidential.

"Custodian" means a lawful custodian as defined in Iowa Code section 22.1.

"Open record" means a record other than a confidential record.

"Personally identifiable information" means information about or pertaining to an individual in a record that identifies the individual and that is contained in a record system.

"Record" means the whole or a part of a "public record" as defined in Iowa Code section 22.1 that is owned by or is in the physical possession of the authority.

"Record system" means any group of records under the control of the authority from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

"Request for confidential treatment" means a request, made pursuant to rule 265—13.4(16,22), for the authority to treat a record as a confidential record and withhold such record from public inspection.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.2(16,22) Requests for access to authority records.

13.2(1) *Location of record.* A request for access to an authority record should be directed to the Iowa finance authority, located at the address set forth in rule 265—1.3(16). If a request for access to a record is misdirected, authority staff will promptly forward the request to the appropriate person within the authority.

13.2(2) *Office hours.* Open records are available during customary office hours of 8 a.m. to 4:30 p.m. on Monday through Friday, excluding legal holidays.

13.2(3) *Request for access.* Requests for access to authority records may be made in writing, including by email, in person, or by telephone. Requests must identify the particular records sought by name or description in order to facilitate the location of the record. A request made other than in person must include the name, email address, if available, and telephone number of the person requesting the information. If a person asks to be mailed paper copies of a record, a mailing address must be included in the request. A person is not required to give a reason for requesting an open record.

13.2(4) *Response to requests.* The authority is authorized to grant or deny access to records according to the provisions of Iowa Code chapter 22, this chapter or any other provision of law. Access to an open record shall be granted promptly upon request. If the size or nature of the request necessitates time for compliance, the authority shall comply with the request as soon as possible. The authority may delay access to a record for any of the reasons set forth in Iowa Code section 22.8(4) or 22.10(4). The authority must promptly give written notice to the requester of the reason for any delay in access to a record and the estimated length of that delay.

13.2(5) *Security of record.* No person may, without permission from the authority, search or remove any record from authority files. Examination and copying of records will be done under the supervision of authority staff to ensure records are protected from damage and disorganization.

13.2(6) *Copying.* The authority will permit the copying of records as described in Iowa Code section 22.3.

13.2(7) *Fees.* The authority may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. An hourly fee may be estimated in advance and charged for actual authority expenses in the inspection, reviewing, and copying of requested records when the total staff time dedicated to fulfilling the request requires an excess of two hours. When the estimated fee chargeable under this subrule exceeds $25, the authority may require a requester to make an advance payment of all or part of the

estimated fee. When a requester has previously failed to pay a fee charged under this subrule, the authority may require advance payment of the full amount of any estimated fee before the authority processes a new or pending request for access to records from that requester, as well as payment in full of the amount previously owed.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.3(16,22) Access to confidential records. The following procedures for access to confidential records are in addition to those specified for all authority records in rule 265—13.2(16,22).

13.3(1) A person requesting access to a confidential record may be required to provide proof of identity or authority if access to the record is limited to a particular person or class of persons.

13.3(2) The authority may require a request for access to a confidential record to be in writing. A person requesting access to a confidential record may be required to sign a certified statement or affidavit enumerating the specific grounds justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

13.3(3) When the authority denies a request for access to a confidential record, in whole or in part, the requester shall be notified in writing. The written notice will include:

a. The name and title or position of the person or persons responsible for the denial; and

b. A brief statement of the grounds for the denial, including a citation to the applicable provision of law vesting authority in the authority to deny disclosure of the record.

13.3(4) When the authority grants a request for access to a confidential record to a particular person, the authority will indicate any lawful restrictions imposed by the authority on that person's examination and copying of the record.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.4(16,22) Requests for confidential treatment.

13.4(1) A request for confidential treatment must be submitted in writing to the authority and:

a. Identify the information for which confidential treatment is sought.

b. Cite the legal and factual basis for confidential treatment.

c. Identify the name, address, telephone number, and email address, if available, of the person authorized to respond to any inquiry or action of the authority concerning the request.

d. Specify the precise period of time for which the confidential treatment is requested, if applicable.

13.4(2) The authority may request additional factual information from the person requesting confidential treatment.

13.4(3) The authority must notify the requester in writing of the granting or denial of the request. If a request for confidential treatment is denied, the authority shall notify the requester in writing of the reasons for its denial. Pursuant to Iowa Code section 22.8, the authority may reasonably delay examination of the record. However, if the authority determines that the requester had no reasonable grounds for the request for confidential treatment, then such record shall not be withheld from public inspection for any period of time after the denial of the request. The authority may notify the requester in writing of the time period allowed to seek injunctive relief or the reasons for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The authority may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request for examination of that record has been received, or if a court directs the authority to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

13.4(4) Failure of a person to request confidential treatment for a record does not preclude the authority from treating it as a confidential record.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.5(16,22) Additions, dissents or objections. Except as otherwise provided by law, the person who is the subject of a record may have a written statement of additions, dissents or objections entered into that record. The statement must be filed with the authority, must be dated and signed by the person who is the subject of the record, and include the person's current address and telephone number, and email address, if

available. This rule does not authorize the person who is the subject of the record to alter the original record or to expand the official record of any authority proceeding.
[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.6(16,22) Notices to suppliers of information. The authority will notify suppliers of information of the use that will be made of the information, which persons outside the authority might routinely be provided the information collected and identify which parts of the requested information are required and which are optional and will state the consequences of failing to provide the information. This notice may be given in the authority's rules, on written forms used to collect the information, in contracts, in program guidance, verbally, or by other appropriate means.
[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.7(16,22) Disclosure of records—consent.

13.7(1) *Disclosure for routine use.* In this chapter, "routine use" means the disclosure of a record without the consent of the subject or subjects, for a purpose that is compatible with the purpose for which the record was collected. To the extent allowed by law, the following uses are considered routine uses of all authority records, including confidential records:

a. Disclosure to those officers, employees, and agents of the authority who have a need for the record in the performance of their duties.

b. Disclosure to a contractor, including but not limited to the department of inspections, appeals, and licensing, for matters in which it is performing services or functions on behalf of the authority.

c. Transfers of information within the authority, to other state agencies, or to units of local government as appropriate to administer the program for which the information is collected.

d. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the authority is operating a program lawfully.

e. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

13.7(2) *Other disclosures of confidential records.* To the extent allowed by law, the following uses may result in disclosure of confidential records without the consent of the subject:

a. Disclosure to a recipient who has provided the authority with advance written assurance that the record will be used solely as statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the authority specifying the record desired and the law enforcement activity for which the record is sought.

d. Disclosure pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

e. Disclosure to the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. Disclosure in response to a court order or subpoena.

13.7(3) *Consent to disclosure of confidential records.*

a. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to the subject or to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, if applicable, the time period during which the record may be disclosed. The person who is the subject of the record and, if applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity.

b. When a record has multiple subjects with interest in the confidentiality of the record, the authority may take reasonable steps to protect confidential information relating to another subject.
[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.8(16,22) Availability of records.

13.8(1) Authority open records are open for public inspection and copying unless otherwise prohibited by current rule or law.

13.8(2) Certain records identified in rules 265—13.9(16,22) and 265—13.10(16,22), or otherwise maintained by the authority, may be confidential records, in whole or in part, and not routinely made available for public inspection pursuant to Iowa Code section 22.7 or other applicable law.
[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.9(16,22) Personally identifiable information.

13.9(1) The authority collects personally identifiable information pursuant to Iowa Code chapter 16, federal statutes and regulations governing federal programs and the issuance of debt by the authority, and other applicable laws. Personally identifiable information is stored by electronic and physical methods. The authority's record systems do not match, collate or compare personally identifiable information in each system with personally identifiable information contained in other record systems. The authority's record systems can collect, maintain and retrieve information by personal identifiers, including names, mailing addresses, and email addresses. This rule describes the nature and extent of personally identifiable information that is collected, maintained and retrieved by the authority by personal identifier in record systems.

13.9(2) *Program records.* Records of persons or organizations participating in the authority's programs are collected by the authority. These records may contain information about individuals collected pursuant to specific federal or state statutes or regulations. Personally identifiable information, such as name, address, social security number and telephone number, may be included in these records when the applicant is an individual. Portions of program records may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(3) *Correspondence.* Records of correspondence from persons outside the authority or sent to persons outside the authority may contain personally identifiable information provided by the sender or recipient of such correspondence. Portions of correspondence may be confidential pursuant to Iowa Code section 22.7 or other applicable law.

13.9(4) *Litigation files.* The authority maintains records regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. These records contain materials that are confidential as attorney work product and attorney-client communications pursuant to Iowa Code sections 22.7(4), 622.10 and 622.11; Iowa Rule of Civil Procedure 1.503(3); Federal Rule of Civil Procedure 26(b)(3); the rules of evidence; the Code of Professional Responsibility; and case law. Some materials are confidential under other applicable provisions of law or as directed by a court order.

13.9(5) *Personnel files.* The authority maintains files containing information about employees, families and dependents, and applicants for positions with the authority. Portions of personnel files may be confidential pursuant to Iowa Code section 22.7(11).

13.9(6) *Bond records.* The authority maintains records related to bonds as provided in Iowa Code section 76.10. Such records may be confidential pursuant to Iowa Code section 22.7(17).
[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.10(16,22) Other groups of records. This rule describes groups of records maintained by the authority other than record systems. These records are routinely available to the public. All or portions of such records may contain confidential information pursuant to Iowa Code section 22.7 or other applicable law. The records are stored by electronic and physical methods.

13.10(1) *Rulemaking records.* Rulemaking records may contain information about individuals making written or oral comments on proposed rules. This information is collected pursuant to Iowa Code section 17A.4.

13.10(2) *Meeting records.* Agendas, minutes and materials presented to boards and other bodies associated with the authority are available from the authority, except those records concerning closed sessions that are exempt from disclosure under Iowa Code section 21.5(4) or that are otherwise confidential by law. Authority meeting records contain information about people who participate in meetings. The information is collected pursuant to Iowa Code section 21.3. This information is not retrieved by individual identifier.

13.10(3) *Publications.* News releases, annual reports, project reports, newsletters, and related documents are available from the authority. Authority news releases, project reports, and newsletters may contain information about individuals, including authority staff. This information is not retrieved by individual identifier.

13.10(4) *Statistical reports.* Periodic reports for various authority programs are available from the authority. Statistical reports do not contain personally identifiable information.

13.10(5) *Published materials.* The authority uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

13.10(6) *Policy manuals.* The authority employees' manual, containing procedures describing the authority's regulations and practices, is available. Policy manuals do not contain information about individuals.

13.10(7) *Other records.* All other records that are not exempt from disclosure by law are available from the authority.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

265—13.11(16,22) Applicability. This chapter does not:

13.11(1) Require the authority to index or retrieve records that contain information about an individual by that person's name or other personal identifier.

13.11(2) Make available to the general public records that would otherwise not be available pursuant to Iowa Code chapter 22.

13.11(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the authority that are governed by the regulations of another agency.

13.11(4) Make available records compiled by the authority in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, rules of discovery, evidentiary privileges and applicable regulations of the authority.

[**ARC 9031C**, IAB 3/19/25, effective 4/23/25]

These rules are intended to implement Iowa Code chapters 16 and 22.

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CHAPTER 14
HOMELESS SHELTER ASSISTANCE PROGRAM
Rescinded IAB 4/6/11, effective 3/18/11

CHAPTER 15
PURCHASING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—15.1(16) Applicability of competitive bidding. Items, including goods or services, that are expected to cost in the aggregate in excess of $50,000 will be obtained as a result of a formal or informal competitive bidding process conducted by the authority, or through the department of administrative services whenever such procurement is in the best interests of the authority, as determined by the authority. Items, including goods or services, expected to cost $50,000 or less in the aggregate may be obtained in any manner deemed appropriate by the authority.

Notwithstanding the foregoing, the authority may exempt any item from competitive bidding if the item is noncompetitive or is purchased in quantities too small to be effectively purchased through competitive bidding; if there is an immediate or emergency need for the item; if the purchase of the item facilitates compliance with set-aside procurement provisions; or if the executive director of the authority determines, in the executive director's sole discretion, that the authority's best interests will be served by exemption from the bidding process.

265—15.2(16) Methods of obtaining bids or proposals used by the authority. Formal or informal bids or proposals are to be obtained by one of the following methods. If more than one method is applicable to the purchase of a particular item, the authority shall choose the method of bidding to be utilized.

15.2(1) *Formal bids.*

a. To solicit formal bids, the authority shall prepare a written invitation-to-bid document and shall send it via the United States Postal Service or electronic mail to selected vendors in the business of providing the goods or services sought by the authority. Goods or services may also be obtained by the authority using reverse auction methods via the authority's Internet website.

b. The invitation to bid shall contain the due date and time of the bid opening, a complete description of the item needed, and any other necessary or proper items.

c. Formal bids received prior to the submission deadline set in the bidding document shall be made available to any interested party on the date and hour designated on the bid form. As the bids are opened, they shall be tabulated, and the results of the tabulation shall be made available to any interested party. The original bids and the tabulations shall be maintained at the authority for one year following the date on which the bids were opened.

d. An award shall be made within 60 calendar days from the date of the bid opening, unless a different time frame is stated by the authority in the invitation to bid or subsequently agreed to by the vendors. The price quoted by the vendors shall remain binding throughout the applicable time period. If an award is not made within the applicable time frame, all bids shall be deemed rejected.

15.2(2) *Informal bids.*

a. Informal bids may be obtained by the authority through use of a written bid form, over the telephone, via facsimile transmission, or in electronic format, including over the Internet or through electronic mail. When requesting informal bids, the authority shall contact selected vendors supplying the goods or services sought by the authority and shall communicate to each vendor the date on which bids must be received, a complete description of the item to be purchased, and the time period during which the bid must remain valid. Goods or services may also be obtained by the authority using reverse auction methods via the authority's Internet website.

b. Written informal bids shall be opened as received, and informal telephone, facsimile, or electronic bids shall be recorded as received. If a bid is received over the telephone, a telephone bid form shall be used to record the bid received. If an electronic bid is received, a printout shall be used to record the bid received. Following the submission deadline, the authority shall tabulate the bids received and make the award. The bids and the tabulations shall be available to interested parties after the submission deadline and shall be maintained by the authority for one year following the submission deadline.

c. If an award is not made within the time frame indicated by the authority when requesting bids, all bids shall be deemed rejected.

15.2(3) *Request for proposals.* Whenever a requirement exists for an item and cost may not be the sole criterion for selection, the authority may issue a request for proposals. The purpose of a request for proposals is to provide the vendor with sufficient information about the authority's requirements and goals to allow the vendor to propose a solution to the authority's requirements.

a. The authority shall prepare a written request for proposals and shall send it via the United States Postal Service or electronic mail to selected vendors in the business of supplying the goods or services sought by the authority.

b. An award shall be made within 60 calendar days from the date of the proposal opening unless a different time frame is stated by the authority in the request for proposals or subsequently agreed to by the vendors. The terms quoted by the vendor shall remain binding throughout the applicable time frame. If an award is not made within the applicable time frame, all proposals shall be deemed rejected and not binding.

c. At a minimum, a request for proposals shall address the following criteria: the need for a proposal conference; the purpose and background of the request; important dates in the proposal and the award process, including the submission deadline; administrative requirements for submitting the proposal and the format required by the authority; the scope of the work to be performed and any specific requirements which the vendor must meet; and any contractual terms and conditions which the authority anticipates may affect the terms of the vendor's proposal.

265—15.3(16) Items purchased through the department of administrative services. Goods and services may be obtained by the authority through the department of administrative services (DAS) whenever procurement through DAS is in the best interests of the authority. Items procured through DAS may be obtained by DAS in any manner it deems appropriate.

265—15.4(16) Posting solicitations. Formal bids and requests for proposals issued by the authority shall be posted to the authority's Internet website. The posting shall indicate that it is a notice to prospective bidders, contain the due date and time of opening of the bid or proposal, describe the items to be purchased, and provide the name, address and telephone number of the person to be contacted to obtain official bidding documents.

[**ARC 0430C**, IAB 10/31/12, effective 12/5/12]

265—15.5(16) Contract purchases. The authority may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.6(16) Blanket purchase agreements. If the authority foresees a requirement for frequent purchases of off-the-shelf items, the authority may establish blanket purchase agreements. A blanket purchase agreement is a formally approved charge account that is designed to reduce paperwork and the number of checks issued. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined, where applicable.

265—15.7(16) Bids and proposals to conform to specifications. All bids and proposals must conform to the specifications indicated by the authority. Bids and proposals that do not conform to the specifications stated may be rejected. The authority reserves the right to waive deficiencies in the bids or proposals if in the judgment of the authority its best interests would be served by the waiver.

265—15.8(16) Time of delivery. When evaluating bids or proposals, the authority may consider the time of delivery when determining the successful vendor.

265—15.9(16) Cash discounts. When evaluating bids or proposals, the authority may consider cash discounts.

265—15.10(16) Ties. The authority shall resolve ties among bids or proposals which are equal in all respects by drawing lots unless only one of the tied bidders is an Iowa business. If only one of the bidders tied for an award is an Iowa business, the Iowa business shall be given preference over all tied out-of-state

businesses. If it is necessary to draw lots, the drawing shall be held in the presence of the vendors who submitted the tied bids or proposals whenever practical. If the tied vendors are not present, the drawing shall be held in front of at least two persons, and the authority shall document the drawing.

265—15.11(16) Time of submission. All formal bids and proposals shall be submitted by the vendor in sufficient time to actually reach the authority prior to the submission deadline specified in the bid document. All informal bids shall be submitted by the vendor in time to reach the authority prior to the submission deadline indicated by the authority. Formal bids and proposals shall be marked by the authority with the date and time received by the authority. Formal bids and proposals received after the submission deadline shall be returned to the vendor unopened. All vendors to whom invitations to bid or requests for proposals are sent shall be notified of any changes in submission deadline.

If a formal bid or request for proposals is canceled prior to the submission deadline, any responses already received shall be returned unopened. If an informal bid is canceled prior to the submission deadline, any bids already received shall be destroyed.

265—15.12(16) Modification or withdrawal of bids. Bids or proposals may be modified or withdrawn prior to the time and date set for the bid or proposal opening. Modifications or withdrawals shall be in writing and delivered in a sealed envelope that properly identifies the correct bid or proposal to be modified or withdrawn. A bid or proposal may be withdrawn after opening only with the approval of the authority if the authority finds that an honest error was made by the vendor that will cause undue financial hardship to the vendor and that will not cause undue financial hardship or inconvenience to the authority.

265—15.13(16) Financial security. The authority may require bid security, litigation security, and performance security on formal bids or proposals. When required, security may be by certified check, certificate of deposit, letter of credit made payable to the authority, or any other form specified by the authority.

265—15.14(16) Rejection of bids and proposals. The authority reserves the right to reject any or all bids or proposals. Bids and proposals may be rejected because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the authority's requirements, or for any other reason if the authority determines that its best interests will be served by rejecting any or all bids. Following the rejection of bids, new bids may be requested by the authority at any time deemed convenient by the authority.

265—15.15(16) Vendor appeals. Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the authority may appeal the decision by filing a written notice of appeal before the Iowa finance authority board at the address set forth in rule 265—1.3(16) within three days of the date of the award, exclusive of Saturdays, Sundays, and state legal holidays. The notice of appeal must actually be received at that address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the authority's award. Following receipt of a notice of appeal which has been timely filed, the board shall notify the aggrieved vendor and the vendor who received the contract award of the procedures to be followed in the appeal. The board may appoint a designee to proceed with the appeal on its behalf.

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

These rules are intended to implement Iowa Code section 16.5(1)*"f."*

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CHAPTER 16
DECLARATORY ORDERS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—16.1(17A) Petition for declaratory order. Any person may file a petition with the authority for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the authority, at the address set forth in rule 265—1.3(16). A petition is deemed filed when it is received by the authority. The authority shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the authority an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE
IOWA FINANCE AUTHORITY

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 265—16.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative and a statement indicating the person to whom communications concerning the petition should be directed.

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

265—16.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the authority shall give notice of the petition to all persons not served by the petitioner pursuant to rule 265—16.6(17A) to whom notice is required by any provision of law. The authority may also give notice to any other persons.

265—16.3(17A) Intervention.

16.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

16.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the authority.

16.3(3) A petition for intervention shall be filed at Iowa finance authority at the address set forth in rule 265—1.3(16). Such a petition is deemed filed when it is received by the authority. The authority will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an

extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

BEFORE THE
IOWA FINANCE AUTHORITY

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

265—16.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The authority may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

265—16.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the executive director of the Iowa finance authority at the address set forth in rule 265—1.3(16).

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

265—16.6(17A) Service and filing of petitions and other papers.

16.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

16.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa finance authority at the address set forth in rule 265—1.3(16). Petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the authority.

16.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by rule 265—7.12(17A).

[**ARC 4319C**, IAB 2/27/19, effective 4/3/19]

265—16.7(17A) Consideration. Upon request by petitioner, the authority must schedule a brief and informal meeting between the original petitioner, all intervenors, and the authority, a member of the authority's board, or a member of the staff of the authority, to discuss the questions raised. The authority

may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the authority by any person.

265—16.8(17A) Action on petition.

16.8(1) Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the executive director or designee shall take action on the petition as required by 1998 Iowa Acts, chapter 1202, section 13(5).

16.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in rule 265—7.2(17A).

265—16.9(17A) Refusal to issue order.

16.9(1) The authority shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the authority to issue an order.
3. The authority does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other authority or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an authority decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the authority to determine whether a statute is unconstitutional on its face.

16.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final authority action on the petition.

16.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

265—16.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

265—16.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

265—16.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the authority, the petitioner, and any intervenors (who consent to be bound) and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the authority. The issuance of a declaratory order constitutes final authority action on the petition.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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CHAPTER 17
AGENCY PROCEDURE FOR RULEMAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/30

265—17.1(17A) Incorporation by reference. The authority incorporates by this reference all such matters in Iowa Code chapter 17A that relate to procedures for rulemaking.
[**ARC 8414C**, IAB 11/27/24, effective 1/1/25]

265—17.2(17A) Contact information.

17.2(1) *General.* Inquiries about authority rules and the rulemaking process may be directed to Director, Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315.

17.2(2) *Comments on proposed rules.* Any public comment on a Notice of Intended Action or similar document relating to rules may be directed to Director, Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, or as directed in the Notice of Intended Action or similar document.
[**ARC 8414C**, IAB 11/27/24, effective 1/1/25]

These rules are intended to implement Iowa Code chapter 17A.

[Filed emergency 9/3/99 after Notice 4/21/99—published 9/22/99, effective 9/3/99]
[Filed ARC 4319C (Notice ARC 4196C, IAB 1/2/19), IAB 2/27/19, effective 4/3/19]
[Filed ARC 8414C (Notice ARC 8170C, IAB 8/7/24), IAB 11/27/24, effective 1/1/25]

CHAPTER 18
WAIVERS FROM ADMINISTRATIVE RULES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/15/30

265—18.1(17A,16) Definitions.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Director" means the same as defined in Iowa Code section 16.1(7).

"Person" means the same as defined in Iowa Code section 17A.2(9).

"Waiver" means the same as defined in Iowa Code section 17A.9A(5).

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.2(17A,16) Applicability of chapter. The authority may grant a waiver of a rule as permitted by Iowa Code section 17A.9A.

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.3(17A,16) Criteria for waiver. In response to a petition filed pursuant to this chapter, the authority may grant a waiver if the authority finds, based on clear and convincing evidence, all of the factors listed in Iowa Code section 17A.9A(2).

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.4(17A,16) Filing of petition. Petitions for waiver should be submitted in writing to Director, Iowa Finance Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315. If the petition relates to a pending contested case, the petition is filed in the contested case proceeding using the caption of the contested case. Petitions may be delivered by email to an email address supplied by the authority's legal counsel.

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.5(17A,16) Content of petition. A completed petition for waiver includes the following information where applicable and known to the petitioner:

1. The name, address, and telephone number of the person for whom a waiver is being requested and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under criteria described in Iowa Code section 17A.9A(2). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver.
5. A history of any prior contacts between the authority and the petitioner relating to the regulated activity, license, financial assistance, or incentives affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.
6. Any information known to the petitioner regarding the authority's treatment of similar cases.
7. The name, address, and telephone number of any public agency or political subdivision that might be affected by the granting of a waiver.
8. The name, address, and telephone number of any person who would be adversely affected by the granting of a waiver.
9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.
10. Signed releases of information authorizing persons with knowledge regarding the request to furnish the authority with information relevant to the waiver.

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.6(17A,16) Notice. The authority will acknowledge a petition within five business days of its receipt. Within 30 days of the receipt of the petition, the authority will provide notice of the pendency of the petition and a copy of the petition or a concise summary of the petition to all persons to whom notice is required by any provision of law. In addition, the authority may give notice to other persons. To accomplish this provision, the authority may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the authority attesting that notice has been provided.
[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.7(17A,16) Hearing procedures. The provisions of Iowa Code sections 17A.10 through 17A.18A regarding contested case hearings apply to the following:

18.7(1) When any petition for a waiver is filed within a contested case;

18.7(2) When the authority so provides by rule or order; or

18.7(3) When required to do so by statute.
[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.8(17A,16) Authority responsibilities regarding petition for waiver.

18.8(1) *Additional information.* Prior to issuing an order granting or denying a waiver, the authority may request additional information from the petitioner relative to the petition and surrounding circumstances. The authority may schedule a meeting between the petitioner and the authority or, if the petition was filed in a contested case, between the petitioner and all parties to the contested case.

18.8(2) *Compliance with Iowa Code standards.* The authority applies the standards and burdens in Iowa Code section 17A.9A(3).

18.8(3) *Final discretion.* The final decision on whether the circumstances justify the granting of a waiver is in the sole discretion of the authority.

18.8(4) *Ruling.* An order granting or denying a waiver will be in writing and will contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is granted.

18.8(5) *Administrative deadlines.* When the rule from which a waiver is sought establishes administrative deadlines, the authority will balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

18.8(6) *Time for ruling.* The authority will grant or deny a petition for a waiver as soon as practicable but, in any event, will do so within 90 days of its receipt unless the petitioner agrees to a later date. However, if a petition is filed in a pending contested case, the authority will grant or deny the petition no later than the time at which the final decision in that matter is issued. Failure of the authority to grant or deny a petition within the required time period is deemed a denial of that petition by the authority. However, the authority remains responsible for issuing an order denying a waiver.

18.8(7) *Service of order.* Within seven days of its issuance, the authority will transmit an order issued under this chapter to the petitioner or any other person entitled to such notice.
[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.9(17A,16) Public availability. The authority will comply with the public availability and filing procedures of Iowa Code section 17A.9A(4).
[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

265—18.10(17A,16) After issuance of a waiver.

18.10(1) *Voiding or cancellation.* A waiver is void if the material facts upon which the petition is based are not true or if material facts have been withheld. The authority may withdraw, cancel or modify a waiver if, after appropriate notice and hearing, the authority issues an order finding any of the following: facts as stated in the request are not true; material facts have been withheld; the alternative means of compliance provided in the waiver have failed to achieve the objectives of the statute or substantially equal protection of public health, safety, and welfare; or the requester has failed to comply with the conditions of the order.

18.10(2) *Violations.* Violation of a condition in a waiver order is the equivalent of a violation of the particular rule for which the waiver is granted. The recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

18.10(3) *Defense.* After the authority issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

18.10(4) *Judicial review.* Judicial review of the authority's decision to grant or deny a waiver petition may be undertaken in accordance with Iowa Code chapter 17A.

[**ARC 8435C**, IAB 12/11/24, effective 1/15/25]

These rules are intended to implement Iowa Code section 17A.9A and chapter 16.

[Filed 6/8/01, Notice 4/4/01—published 6/27/01, effective 8/1/01]
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[Filed ARC 8435C (Notice ARC 8181C, IAB 8/7/24), IAB 12/11/24, effective 1/15/25]

CHAPTER 19
STATE HOUSING TRUST FUND

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/23/30

265—19.1(16) Trust fund allocation plans. The state housing trust fund is established pursuant to Iowa Code section 16.181.

19.1(1) The authority shall allocate funds in the state housing trust fund according to Iowa Code section 16.181 and the following allocation plans:

a. The Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated September 8, 2021; and

b. Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Project-Based Housing Program dated August 5, 2009.

19.1(2) The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6.

[**ARC 9032C**, IAB 3/19/25, effective 4/23/25]

265—19.2(16) Location of copies of the plans. The trust fund allocation plans for the local housing trust fund program and the project-based housing program will be posted on the authority's website at www.iowafinance.com. The plans incorporate by reference Iowa Code section 16.181.

[**ARC 9032C**, IAB 3/19/25, effective 4/23/25]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.181.

[Filed 11/6/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]
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[Filed Emergency After Notice ARC 5933C (Notice ARC 5793C, IAB 7/28/21), IAB 10/6/21, effective 9/13/21]
[Filed ARC 9032C (Notice ARC 8480C, IAB 12/11/24), IAB 3/19/25, effective 4/23/25]

CHAPTER 20
SENIOR LIVING REVOLVING LOAN PROGRAM

Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 21
HOME AND COMMUNITY-BASED SERVICES REVOLVING LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—21.1(16) Purpose. Through its home and community-based services revolving loan program (program), the authority seeks to assist in the development and expansion of specific community-based services (adult day services, respite services, congregate meals, health and wellness, health screening, and nutritional assessments) that will allow persons of low income to remain in their homes. This chapter implements Iowa Code section 16.47 and furthers the goals specified in Iowa Code section 231.3.
[**ARC 4795C**, IAB 12/4/19, effective 1/8/20]

265—21.2(16) Available funds. The authority anticipates that it will, at least annually, publicize the approximate amount of funds available under this program for the applicable fiscal year on the authority's Web site at www.iowafinanceauthority.gov. Any unallocated or recovered funds, or payments of interest and principal, or any combination thereof, may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority.

265—21.3(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this program, and to allow discretion and flexibility to be used by the authority in its analysis and awarding of assistance under this program. It is the position of the authority that such discretion and flexibility are essential to structuring transactions that will serve to develop and expand facilities and infrastructure that provide adult day services, respite services, congregate meals, and programming space for health and wellness, health screening, and nutritional assessments that address the needs of persons with low incomes in a manner that best serves the citizens of the state.

265—21.4(16) Application procedure. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority's Web site as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. In the event it becomes necessary to amend the application, the authority will post the amended version of the application on its Web site. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis, beginning on or after December 6, 2004. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to develop and expand facilities and infrastructure that provide adult day services, respite services, and congregate meals that address the needs of persons with low incomes in the state.

265—21.5(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

21.5(1) Projects eligible for assistance must meet the following criteria:

a. In the case of adult day services, the project must:

(1) Set aside 40 percent of the admissions for those with incomes at or below 40 percent of area median income (AMI) for the county in which the property is located;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;

(3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and

(4) Become and remain certified as an adult day services provider, as set forth in 481—Chapters 67 and 70.

b. In the case of respite services, the project must:

(1) Provide services to underserved people in the community;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;

(3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441—Chapter 77; and

(4) Meet all local, state and federal requirements subject to health care limits of the proposed setting.

c. In the case of congregate meals, the project must establish and maintain a contract with the area agency on aging to provide congregate meals under the standards established for such a program under the federal Older Americans Act.

d. In the case of programming space for health and wellness, the program must:

(1) Adopt research-based practices to prevent disease and improve overall wellness, resulting in measurable outcomes for participants;

(2) Provide educational opportunities on disease prevention, physical activity, and nutritional choices; and

(3) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay.

e. In the case of programming space for health screening, the program must:

(1) Use a licensed health care professional to provide screening and assessment services within the limits of the professional's license;

(2) Provide services to underserved people in the community; and

(3) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay.

f. In the case of programming space for nutritional assessments, the program must:

(1) Use a registered dietitian to provide assessment and counseling services;

(2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay; and

(3) Accept third-party reimbursement for nutritional counseling, including one or both of the following:

1. Medicaid 1915(c) waiver(s) and meet the standards set forth in human services department rules in 441—Chapters 77 and 78;

2. The Older Americans Act, 42 U.S.C. § 3001 et seq., and meet the standards set forth in the department on aging's rules in 17—Chapter 7.

g. A demonstrated market need for the project must exist and the project must be in a good location, both as determined by the authority in its sole discretion.

h. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the loan.

i. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

j. Programs shall comply with all applicable federal, state and local laws and rules related to the specified service or services offered by the sponsor.

21.5(2) The following types of activities are eligible for assistance:

a. Acquisition and rehabilitation.

b. New construction.

c. Rehabilitation to expand a current program.

d. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

21.5(3) Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is $50,000, and the maximum loan amount is $1,000,000. The maximum loan term and amortization period are each 20 years.

b. The debt service ratio must be at least 1.30:1, as calculated by the authority. In addition, the loan-to-value ratio of the project, as calculated by the authority, will be considered. Notwithstanding the above, the authority may, in its sole discretion, accept a lower debt service ratio based on the final underwriting of the project.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. Each project receiving assistance may demonstrate a local contributing effort, as such term is used in Iowa Code section 16.4.

g. Recipients shall execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

21.5(4) Loan fees.

a. Loan fees are as follows:

(1) Commitment fee (construction period) – 1.0 percent of the loan amount.

(2) Commitment fee (permanent loan) – 2.0 percent of the loan amount.

(3) Inspection fee – 0.5 percent of construction loan amount.

(4) Application fee – 0.3 percent of total loan amount requested, payable with the submission of loan application.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

c. The authority will refund to the borrower one-half of the permanent loan commitment fee if the borrower's loan is paid off within five years of the closing of the loan.

[**ARC 4795C**, IAB 12/4/19, effective 1/8/20]

265—21.6(16) Authority analysis of applications. Authority staff, in cooperation with the department of inspections and appeals or the department on aging (or both, as necessary), will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction, and the particular set of circumstances attributable to each particular application/transaction, the terms and conditions of loans may vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

[**ARC 4795C**, IAB 12/4/19, effective 1/8/20]

265—21.7(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—21.8(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

These rules are intended to implement Iowa Code section 16.47.

[Filed 9/9/04, Notice 8/4/04—published 9/29/04, effective 11/3/04]

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CHAPTER 22
IOWA AFTERCARE SERVICES RENT SUBSIDY PROGRAM
Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 23
TRANSITIONAL HOUSING REVOLVING LOAN PROGRAM
Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 24
HOME- AND COMMUNITY-BASED SERVICES RENT SUBSIDY PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 3/26/30

265—24.1(16) Definitions.

"Applicant" means a person aged 18 or over who participates in one of the home- and community-based services waiver programs, habilitation services, or Money Follows the Person.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Habilitation services" means an Iowa Medicaid program designed to provide home- and community-based services to Iowans with the functional impairments typically associated with chronic mental illnesses.

"Home- and community-based services waiver program" means any of the waiver programs administered by the department of health and human services under the provisions set forth in 441—Chapter 83, the habilitation services waiver, or Money Follows the Person.

"Housing Choice Voucher program" or *"HCV program"* means the federal government's program created in the Housing and Community Development Act of 1974, 42 U.S.C. Ch. 69, §5301 et seq. (1974).

"HUD" means the U.S. Department of Housing and Urban Development.

"Legal guardian" means a person lawfully invested with the power, and charged with the obligation, of taking care of and managing the property and rights of a recipient who, because of age, understanding, or self-control, is considered incapable of administering the recipient's own affairs.

"Money Follows the Person" or *"MFP"* means Iowa's Money Follows the Person partnership for community integration program.

"Program" means the home- and community-based rent subsidy program as defined and structured under this chapter.

"Qualified dependent" means the applicant's child who is claimed as a dependent of the applicant for federal income tax purposes.

"Qualified rental unit" means a housing unit subject to the provisions of Iowa Code chapter 562A and for which a signed written rental agreement exists.

"Recipient" means an applicant approved for and receiving rent subsidy payments under the program.

"Representative payee" means a person who is appointed for a recipient unable to receive and manage the recipient's own benefits due to mental or physical impairments. The representative payee is to use the benefits in the recipient's best interest and is personally liable for misuse of funds.

[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

265—24.2(16) Eligibility requirements.

24.2(1) *Demonstrated need.* An eligible applicant will demonstrate need for rent subsidy by meeting all of the following requirements:

a. The applicant will provide a copy of an executed rental agreement showing the applicant as a tenant, with signatures by the landlord and the applicant or the applicant's legal guardian;

b. The applicant will provide evidence that the applicant pays more than 30 percent of the applicant's gross income for rent, with a minimum contribution of $25 per month;

c. The applicant will not receive any other rental assistance while receiving rent subsidy payments under the program;

d. The applicant will not use this program to substitute for any other ongoing rent subsidy being received at the time of application to this program; and

e. The applicant's rental unit must be a qualified rental unit and must not be owned by someone who lives in the unit.

24.2(2) *Ineligible for other rent subsidies.* An eligible applicant for rent subsidy payments under this program will have been determined ineligible for the HCV program, be on the HCV program waiting list, or document that the HCV program waiting list is closed. If the HCV waiting list is currently closed, the applicant is responsible for monitoring the status of the waiting list application period and must apply at the first available opportunity and provide documentation of an HCV application submission to the local public

housing authority. If the authority determines an applicant failed to apply for HCV at the first available opportunity, the authority may remove the applicant from the program or the program waiting list.
[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

265—24.3(16) Application. Applications for the program may be obtained on the authority's website. An applicant shall complete the application and provide all required documentation. For the purposes of this rule, the application date means the date the completed application, including all required documentation, is received by the authority.

24.3(1) The authority will review each completed application and determine whether the applicant is eligible for the program. The applicant may elect to have any of the following notified: legal guardian, case manager or representative payee.

24.3(2) The authority will maintain and administer a statewide waiting list for the program. When an application is received, the applicant will be placed on the waiting list according to the application date unless the provisions of Iowa Code section 16.55 apply.

24.3(3) When funding allows additional applicants to be added to the program, the authority will request updated documentation from the next applicant on the waiting list, and each applicant's eligibility will be determined based upon the updated documentation. If the completed application is not received by the deadline specified by the authority, the applicant may be removed from the waiting list. If the authority determines an applicant is eligible for the program, the authority will notify the applicant of the amount of monthly rent subsidy within 30 days of making the determination.
[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

265—24.4(16) Rent subsidy.

24.4(1) *Use of subsidy.* Assistance shall be used for rental expense.

24.4(2) *Maximum monthly payment for rent.* Assistance for rent will be equal to the lesser of the rent paid by the recipient or the current applicable fair market rent as published by HUD for the area where the recipient's residence is located, less 30 percent of the recipient's gross monthly income. The fair market rent used will be that for a one-bedroom unit or a proportionate share of the fair market rent in living units containing more than one bedroom. When the recipient resides with one or more qualified dependents, the proportionate share may consist of additional bedrooms, applying the same maximum monthly payment standard.

24.4(3) *Monthly payment.* Recipients approved for rent subsidy payments will receive an ongoing monthly payment equal to the amount determined pursuant to subrule 24.4(2). Payments may be made on behalf of a recipient directly to the recipient's landlord.
[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

265—24.5(16) Redetermination of eligibility.

24.5(1) *Time of completion.* A redetermination of eligibility for rent subsidy payments will be completed annually unless one of the following conditions occurs:

a. A change in circumstances that affects eligibility in accordance with rule 265—24.2(16).

b. The recipient moves from the residence stated on the approved application.

c. There is a change greater than $100 in the recipient's gross monthly income.

24.5(2) *Renewal notice.* The authority will send a renewal notice to the recipient and, if applicable, the recipient's legal guardian, case manager or representative payee at least 30 days before the annual redetermination deadline. The renewal notice will specify the annual redetermination deadline and the documentation that must be submitted to the authority.

a. The recipient shall submit the completed application and required documents to the authority as directed on the application.

b. If the authority does not receive the completed application and required documents by the annual redetermination deadline, the recipient's rent subsidy will be terminated.
[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

265—24.6(16) Termination of rent subsidy payments.

24.6(1) *Reasons for termination.* The authority may terminate the rent subsidy at the end of a month in which any of the following occur:

a. The recipient does not meet one or more of the eligibility criteria listed in rule 265—24.2(16).

b. The recipient fails to submit documentation required pursuant to subrule 24.5(2) by the deadline established by the authority.

c. Rent subsidy program funds are exhausted for the fiscal year.

d. The recipient, case manager, legal guardian or representative payee threatens physical violence or injury toward authority staff.

e. The recipient provides false information.

f. The recipient, legal guardian or representative payee misuses rent subsidy payments for purposes other than rent assistance.

g. The recipient is not in compliance with any other programs offered or administered by the authority while receiving rent subsidy payments.

24.6(2) *Notification to recipient.* If the authority terminates a recipient's rent subsidy, the authority will notify the recipient in writing.

24.6(3) *Reporting of changes.* The recipient or the recipient's legal guardian or representative payee, as applicable, is required to report to the authority any changes that may affect eligibility within ten business days of the occurrence of the change, including changes in circumstance listed under subrule 24.5(1). Failure to do so may result in the recipient's responsibility to repay rent subsidy funds dating back to the recipient's failure to report the change and termination of the rent subsidy.

[**ARC 8903C**, IAB 2/19/25, effective 3/26/25]

These rules are intended to implement Iowa Code section 16.55.

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CHAPTER 25
ENTREPRENEURS WITH DISABILITIES PROGRAM
Rescinded IAB 5/4/11, effective 4/15/11

CHAPTER 26
WATER POLLUTION CONTROL WORKS AND DRINKING WATER FACILITIES FINANCING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—26.1(16) Statutory authority. The authority to provide loans to eligible applicants to assist in financing drinking water and wastewater treatment facilities and water pollution control projects is provided by Iowa Code sections 16.131 through 16.133.

265—26.2(16) Purpose. The Iowa finance authority provides financing to carry out the functions of the state revolving fund (SRF) loan programs. Under an agreement with the United States Environmental Protection Agency, the Iowa SRF is administered by the Iowa department of natural resources in partnership with the Iowa finance authority.
[**ARC 8457B**, IAB 1/13/10, effective 2/17/10]

265—26.3(16) Definitions.

"Authority" or *"IFA"* means the Iowa finance authority.

"Clean Water Act" or *"CWA"* means the federal Water Pollution Control Act of 1972, as amended by the Water Quality Act of 1987.

"Commission" means the environmental protection commission of the Iowa department of natural resources.

"Common ownership" means the ownership of an animal feeding operation as a sole proprietor, or a majority ownership interest held by a person, in each of two or more animal feeding operations as a joint tenant, tenant in common, shareholder, partner, member, beneficiary, or other equity interest holder. The majority ownership interest is a common ownership interest when it is held directly, indirectly through a spouse or dependent child, or both.

"Department" or *"DNR"* means the Iowa department of natural resources.

"Director" means the director of the authority.

"DWSRF" means the drinking water state revolving fund.

"Eligible costs" means all costs related to the completion of a project as defined in the CWA and SDWA and 567—Chapters 40 and 90.

"EPA" means the United States Environmental Protection Agency.

"Intended use plan" or *"IUP"* means the program document identifying the intended uses of funds available for loans pursuant to the WPCSRF and the DWSRF.

"Nonpoint source" means any project described in Section 319 of the Clean Water Act.

"Recipient" means the entity receiving funds from the SRF.

"Safe Drinking Water Act" or *"SDWA"* means Title XIV of the federal Public Health Service Act, commonly known as the "Safe Drinking Water Act," as amended by the Safe Drinking Water Amendments of 1996.

"SRF" means the state revolving fund.

"WPCSRF" means the water pollution control state revolving fund.
[**ARC 8457B**, IAB 1/13/10, effective 2/17/10]

265—26.4(16) Project funding.

26.4(1) *Intended use plans/state project priority lists.* The state project priority lists shall include projects eligible for SRF loans as provided in 567—Chapters 44 and 92. The authority will consider the following when determining whether to provide a loan to an eligible recipient:

a. Recipient's financial capability to repay the loan and to provide operation and maintenance, replacement reserves, and, if required, debt service reserves;

b. Recipient's statement of willingness to accept all loan terms and conditions;

c. The priority of the project;

d. Funds available; and

e. The technical review and approval of the project by the department.

26.4(2) *Phased or segmented projects.* Loan funds for future portions of phased or segmented projects cannot be ensured, although subsequent segments of a project which has been awarded financial assistance will receive priority over other new projects. Loans made for separate phases or segments of a project will be administered separately.

26.4(3) *Loan adjustments.* Loan amounts may be adjusted to reflect eligible costs.

26.4(4) *Recipient record keeping.* The recipient shall maintain records that document all costs associated with the project. Moneys from the SRF and those contributed by the recipient shall be accounted for separately. Accounting procedures shall conform to generally accepted government accounting standards. The recipient shall agree to provide access to these records to the department, the authority, the state auditor, the state or EPA, and the Office of the Inspector General at the EPA. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

26.4(5) *Site access.* The recipient shall agree to provide the department and the department's agent access to the project site at all times to verify that the loan funds are being used for the intended purpose and that the construction work meets all applicable state and federal requirements. Recipients shall also agree to provide the department periodic access to the project site for the duration of the loan to ensure that the project is being operated and maintained as designed.

26.4(6) *Cross-cutting laws.* Other federal and state statutes and programs may affect an SRF project. Loan agreements will include an assurance that a recipient will comply with all applicable federal and state requirements.

265—26.5(16) WPCSRF/DWSRF infrastructure construction loans.

26.5(1) *Loan agreements.* The authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the CWA/SDWA and applicable state rules for SRF funding. The loan shall be accompanied by an enforceability opinion in a form acceptable to the authority and, if applicable, a bond counsel opinion as to the status of interest on the obligation, in a form acceptable to the authority. A copy of the current form of the loan agreement shall be provided to the applicant upon request.

26.5(2) *Loan rates and terms.* Loan terms for point source projects shall include the following:

a. *Interest rates.* Loan interest rates shall be established in the IUP and shall be established by taking into account factors including, but not limited to, the following:

(1) Interest rate cost of funds to the SRF;

(2) Availability of other SRF funds;

(3) Prevailing market interest rates of comparable non-SRF loans; and

(4) Long-term SRF viability.

b. *Loan initiation fee.* The loan initiation fee shall be established in the IUP. The fee shall be payable on the closing date of the loan agreement.

c. *Annual loan servicing fee.* The annual loan servicing fee shall be established in the IUP.

d. *Revenue pledge.* The recipient shall establish sufficient revenue sources that are acceptable to the director for the repayment of the loan. To ensure repayment of obligations according to the terms of the loan agreement, the recipient shall agree to impose, collect, and increase, if necessary, user charges, taxes, or other dedicated revenue sources identified for the loan repayment in order to maintain annual net revenues at a level equal to at least 110 percent of the amount necessary to pay debt service on all revenue obligations during the next fiscal year, provided, however, that, at the discretion of the director, the authority may allow other revenue sources and coverage of less than 110 percent as security. In case of loan default, the authority shall have authority to require revenue adjustment, through the manner described above, to collect delinquent loan payments.

e. *Security.* The loan shall be secured by a first lien upon the dedicated source of repayment which may rank on a parity basis with other obligations. The dedicated source of repayment is expected to be the net revenues of the recipient's system and the loan is expected to be secured by a first lien on said net revenues. Loans secured by revenues of a system may rank on a parity basis with other outstanding obligations or, with the approval of the director, may be subordinate in right of payment to the recipient's

other outstanding revenue obligations. Loans may also be secured by a general obligation of the recipient through the provision for a levy of taxes to repay the loan.

f. *Construction payment schedules.* An estimated construction drawdown schedule provided by the recipient shall be part of the loan agreement.

26.5(3) *Loan commitments.* A loan agreement shall be a binding commitment of the recipient.

26.5(4) *Purpose of payments.* The recipient shall use the proceeds of the WPCSRF/DWSRF loan solely for the purpose of funding the approved project.

26.5(5) *Costs.* All eligible costs must be documented to the satisfaction of the authority and the department before proceeds of the loan will be disbursed.

26.5(6) *Loan amount and repayment period.* All loans shall be made contingent on the availability of funds, the maximum loan term will be that allowed by EPA, and repayment of the loan must begin no later than one year after the project is completed or by the date specified in the loan agreement.

26.5(7) *Prepayment.* The loan may be prepaid, in whole or in part, on any date with the prior written consent of the authority.

[**ARC 8457B**, IAB 1/13/10, effective 2/17/10; **ARC 0245C**, IAB 8/8/12, effective 7/12/12; **ARC 0431C**, IAB 10/31/12, effective 12/5/12]

265—26.6(16) Planning and design loans.

26.6(1) *Timing of loan.* Prior to a recipient's execution of a loan agreement for project construction, funds may be loaned to the recipient to pay for initial eligible costs, including the cost of facility planning and design engineering.

26.6(2) *Duration.* Planning and design loans may not have a duration of longer than three years from their date of execution, unless the director provides written consent to a longer term.

26.6(3) *Interest rate.* The interest rate will be that rate specified in the most recent IUP.

26.6(4) *Rollover to construction loan.* All funds borrowed by the recipient as a planning and design loan may be financed as a part of a construction loan agreement upon expiration of the term of the planning and design loan.

26.6(5) *Repayment.* If the recipient does not execute an SRF construction loan, the planning and design loan shall be paid in full at the end of the three-year term, unless the loan term is extended by written consent of the director.

[**ARC 8079B**, IAB 8/26/09, effective 8/7/09]

265—26.7(16) Disadvantaged community status.

26.7(1) *Criteria for disadvantaged community status.* The authority, in conjunction with the department, may develop criteria to determine disadvantaged community status. Factors included in the criteria include, but are not limited to, the community's median household income and target user charges. Criteria to determine disadvantaged community status shall be established in the IUP.

26.7(2) *Interest rate.* Interest rates for disadvantaged communities shall be established in the IUP.

[**ARC 8457B**, IAB 1/13/10, effective 2/17/10]

265—26.8(16) WPCSRF nonpoint source set-aside loan programs.

26.8(1) *Nonpoint source loan assistance.* Loan assistance for nonpoint source projects shall be in the form of low-interest loans or through linked deposits or loan participations through participating lending institutions.

26.8(2) *Application for loan assistance.* Application for loan assistance may be made at any participating lending institution or submitted to the authority or the authority's agent, as applicable. A list of participating lending institutions will be made available by the authority, financial agent or other entity that the authority may use to administer this program. Application for loan assistance shall be made on forms provided by the authority or its agent.

26.8(3) *Project approval.* Each project must be approved by the appropriate environmental or conservation agency as determined by the department.

26.8(4) *Loan approval.* For linked deposit programs, the participating lending institution shall, upon receipt of a completed loan application form, either approve or deny the loan in accordance with the program requirements. If the loan is approved, the lending institution shall notify the authority or its agent

in order to reserve funds in that amount to ensure that funds are available at the time of disbursement. If the loan is denied, the lending institution shall notify the loan applicant, clearly stating the reasons for the loan denial. For low-interest loans with the authority, the authority, or its agent, shall notify the applicant of the loan approval or denial.

26.8(5) *Availability of funds.* Before acting on a loan application, the lending institution shall ensure that adequate funds are available for the project and that the completed project has been inspected and approved by the appropriate environmental or conservation agency as determined by the department.

26.8(6) *Property transfer.* In the event of property transfer from the applicant to another person or entity during the repayment period specified in the loan agreement, the balance of the loan shall be immediately due in full.

26.8(7) *Loan amount and period.* All loans shall be made contingent on the availability of funds in the applicable fund or set-aside program as indicated in the IUP. The minimum and maximum loan amounts that will be considered are dependent on project type and are set forth as follows:

Type of Project	Type of Assistance	Minimum Loan Amount	Maximum Outstanding Balance	Maximum Loan Term	Project Approval Agency
General Nonpoint Source	Low-interest loans, Linked deposit or Loan participations	$5,000	No maximum	20 years	DNR
Local Water Protection	Linked deposit	$5,000	$500,000 per common ownership	10 years	Division of Soil Conservation
Livestock Water Quality Facilities	Linked deposit	$10,000	$500,000 per common ownership	15 years*	Division of Soil Conservation
Onsite Wastewater Systems Assistance	Linked deposit	$2,000	No maximum	10 years	County

*If the loan is made only for preparation of a comprehensive nutrient management plan, the loan period shall not exceed 5 years.

26.8(8) *Prepayment.* For direct loans, prepayment of the loan principal in whole or in part shall be allowed without penalty.

26.8(9) *Loan adjustments.* If the eligible costs exceed the loan amount, the recipient may request an increase in the loan amount. The lending institution is authorized to execute a loan for a principal amount of up to 10 percent above the amount of the loan application if the eligible costs exceed the application amount. To determine the appropriate action, the authority will evaluate the request by considering available moneys in the fund as well as the financial risk. Should the eligible costs be less than the loan amount, the loan shall be appropriately adjusted.

26.8(10) *Disbursement of funds.* Funds shall be disbursed in accordance with the loan agreement. The loan agreement may allow for periodic disbursement of funds.

[**ARC 8457B**, IAB 1/13/10, effective 2/17/10; **ARC 8906B**, IAB 6/30/10, effective 6/10/10]

265—26.9(16) Termination and rectification of disputes.

26.9(1) *Termination.* The authority shall have the right to terminate any loan if a term of the agreement has been violated. Loans are subject to termination if construction has not begun within one year of the execution of a loan agreement. The director will establish a repayment schedule for funds already loaned to the recipient. Every termination must be in writing.

26.9(2) *Rectification and disputes.* Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority, the authority's agent, or the participating lending institution to withhold loan disbursements. The recipient is responsible for ensuring that the identified problem(s) is rectified. Once the deficiency is corrected, the loan funds can be released. A recipient that disagrees with the director's withholding of loan funds may request a formal review of the action. The recipient must submit to the director a written request for a formal review of the action within 30 days of receiving notice that loan disbursements will not be released.

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.133.

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CHAPTER 27
MILITARY SERVICE MEMBER HOME OWNERSHIP ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—27.1(16) Purpose. The purpose of the military service member home ownership assistance program is to help eligible members of the armed forces of the United States to purchase qualified homes in Iowa.

265—27.2(16) Definitions. As used in this chapter, unless the context otherwise requires:

"Closing agent" means the attorney, real estate firm, or closing company that is closing the qualifying purchase transaction and that prepares the cash sale settlement statement.

"Eligible service member" means a person purchasing his or her primary residence in the state of Iowa who, at the time of application for a grant under the program, (1) is or was, if discharged under honorable conditions, a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001, or during the period of the Persian Gulf Conflict, beginning August 2, 1990, and ending April 6, 1991; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

"Facilitating lender" means a lender that is not a participating lender but that is approved by the authority to make loans under the military home ownership assistance program pursuant to Iowa Code section 16.54(5) and subrule 27.3(7).

"Home ownership assistance" means the one-time assistance of up to $5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home.

"Manufactured home" means the same as defined in Iowa Code section 435.1.

"Participating lender" means a lender approved for participation in one or more of the authority's first mortgage financing home buyer programs. The authority maintains a list of participating lenders on its website: www.iowafinanceauthority.gov.

"Program" or *"military home ownership assistance program"* or *"MHOA"* means the military service member home ownership assistance program authorized by Iowa Code section 16.54.

"Qualified home" means a home located in the state of Iowa that an eligible service member purchases, occupies, and uses as the service member's primary residence. The home must fall into one of the following categories:

1. Single-family residence, including "stick-built" homes, modular homes, or manufactured homes;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as the service member's primary residence.

"Qualified mortgage" means a permanent mortgage loan made pursuant to one of the authority's home buyer mortgage programs unless the lender offers financing that is more financially advantageous for the service member.

"Status documentation" means written documentation verifying that the applicant is an eligible service member. This documentation may include, but is not limited to, a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant's most recent leave and earnings statements representing 90 days of active duty.

"Title guaranty certificate" means the certificate issued by the Iowa title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both.

[**ARC 8945B**, IAB 7/28/10, effective 7/6/10; **ARC 9803B**, IAB 10/5/11, effective 11/9/11; **ARC 1595C**, IAB 9/3/14, effective 8/6/14; **ARC 1854C**, IAB 2/4/15, effective 3/11/15; **ARC 3424C**, IAB 10/25/17, effective 11/29/17; **ARC 4265C**, IAB 1/30/19, effective 3/6/19]

265—27.3(16) Application procedure and determination of eligibility.

27.3(1) *Prior approval.* Whether the purchase of a qualified home is by mortgage financing or cash, prior approval of the assistance by the authority is required. Approval of the request will include supporting document review by the authority and a determination of the service member's eligibility by the Iowa department of veterans affairs.

27.3(2) *Financed home purchases.*

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating or facilitating lender. If the service member qualifies for one of the authority's home buyer mortgage programs, the mortgage financing provided shall be a qualified mortgage. Service members who are not eligible for one of the authority's home buyer mortgage programs and are not purchasing on a cash basis may use any permanent financing available to them.

b. To apply for the military assistance, the eligible service member shall provide the participating or facilitating lender with the status documentation and all necessary program documents.

c. Once the lender has received all of the information required by this subrule, the lender shall transmit copies of the necessary documentation to the authority.

27.3(3) *Cash home purchases.* In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, the purchase agreement with any addenda or attachments for a primary residence, and a title guaranty commitment.

27.3(4) *Referral of status documentation to Iowa department of veterans affairs.* The authority shall submit the status documentation, upon receipt, to the Iowa department of veterans affairs for verification that the applicant is an eligible service member. The Iowa department of veterans affairs shall be the final authority as to whether an applicant is an eligible service member.

27.3(5) *Notice of MHOA approval.* Upon confirmation of the applicant's eligibility by the Iowa department of veterans affairs and the authority, the authority shall notify the lender, or eligible service member in the case of a cash purchase, that the MHOA application has been approved.

27.3(6) *Gaps in funding.* In cases where the military assistance funds are unavailable during the home purchase process, MHOA requests for approval may be placed on a waiting list. When funds are again available and the home purchase closed without the benefit of military assistance funds being applied toward closing costs or down payment, the proceeds of the assistance shall be paid (1) directly to the participating lender or servicing lender to be applied toward the qualified mortgage loan's principal balance, or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. The authority will notify the applicant that the assistance will be applied to the principal balance.

27.3(7) *Approval process for facilitating lender status.* Pursuant to Iowa Code section 16.54(5), an Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller.

[**ARC 8945B**, IAB 7/28/10, effective 7/6/10; **ARC 9803B**, IAB 10/5/11, effective 11/9/11; **ARC 0827C**, IAB 7/10/13, effective 8/14/13; see Delay note at end of chapter; **ARC 1142C**, IAB 10/30/13, effective 10/15/13; **ARC 1253C**, IAB 12/25/13, effective 1/29/14; **ARC 1595C**, IAB 9/3/14, effective 8/6/14; **ARC 1854C**, IAB 2/4/15, effective 3/11/15; **ARC 3424C**, IAB 10/25/17, effective 11/29/17]

265—27.4(16) MHOA award. Assistance awarded hereunder shall be up to $5,000 toward the purchase of a qualified home.

27.4(1) *MHOA reimbursement.* The lender shall advance funds at closing in an amount equal to the assistance on behalf of the eligible service member. After closing, the lender shall submit to the authority copies of the following documents: an executed settlement statement, the deed conveying title, a title guaranty commitment, and the promissory note and mortgage. After closing, for cash home purchasers, the eligible service member shall submit to the authority a copy of the executed settlement statement, the deed conveying title and the executed title guaranty certificate.

27.4(2) *MHOA assistance restrictions and limitations.* All assistance under the program is subject to funding availability. Assistance will be awarded in the order in which all required documentation is received and approved by the authority. Assistance awarded pursuant to the program is personal to its recipient and may not be assigned. Only one award of assistance shall be awarded per home purchase. If both homeowners are eligible service members, only one may use the MHOA per home purchase. If another home is purchased at a later date, the other eligible service member may use the MHOA on the second home if the program exists and funds are available. An eligible service member shall receive only one award under the program. While program funds are available, the award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.

[**ARC 8945B**, IAB 7/28/10, effective 7/6/10; **ARC 9803B**, IAB 10/5/11, effective 11/9/11; **ARC 3424C**, IAB 10/25/17, effective 11/29/17]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.54.

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[1] August 14, 2013, effective date of ARC 0827C [27.3(2)] delayed 70 days by the Administrative Rules Review Committee at its meeting held August 6, 2013.

CHAPTER 28
WASTEWATER AND DRINKING WATER TREATMENT FINANCIAL ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—28.1(16) Overview.

28.1(1) *Sources of funds.* The wastewater and drinking water treatment financial assistance fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law.

28.1(2) *Purpose.* The purpose of the program is to provide financial assistance to enhance water quality. Financial assistance under the program shall be used for eligible costs to install or upgrade wastewater treatment facilities and systems and drinking water treatment facilities and systems, including source water protection projects, and for engineering or technical assistance for facility planning and design.

[**ARC 4211C**, IAB 1/2/19, effective 2/6/19]

265—28.2(16) Definitions.

"Authority" or *"IFA"* means the Iowa finance authority as established by Iowa Code chapter 16.

"Committee" means the water quality financing review committee consisting of the secretary of agriculture or the secretary's designee, the executive director of the authority or the executive director's designee, and the director of the department of natural resources or the director's designee.

"Community" means a city, county, sanitary district, rural water district, or other governmental body empowered to provide sewage collection and treatment services or drinking water distribution and treatment in connection with a project. "Community" includes a utility management organization formed under Iowa Code chapter 28E or operated by a rural water system organized under Iowa Code chapter 357A or 504.

"Costs" means all expenses incurred by the recipient and determined by the authority as reasonable and necessary to carry out a project.

"Department" or *"DNR"* means the Iowa department of natural resources.

"Director" means the director of the authority.

"Disadvantaged community" means the same as defined in Iowa Code section 455B.199B.

"Program" means the wastewater and drinking water treatment financial assistance program created in Iowa Code section 16.134.

"Project" means the acquisition, construction, reconstruction, extension, equipping, improvement or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner and for drinking water infrastructure improvements, source water protection, and other activities intended to facilitate public water supply system compliance and public health protection.

"Recipient" means the entity receiving funds from the program.

"SRF" means the state revolving fund, which is the Iowa water pollution control works and drinking water facilities financing program administered by IFA and DNR.

[**ARC 4211C**, IAB 1/2/19, effective 2/6/19]

265—28.3(16) Project funding.

28.3(1) *Approval of projects.* The committee will approve or deny applications for financial assistance. The committee will approve financial assistance from the fund in accordance with the priorities listed in subrule 28.3(2). The committee will determine the weighting of priorities on an annual basis.

28.3(2) *Project priority.* Priority will be given:

a. To projects in which a disadvantaged community is seeking financial assistance for the installation or upgrade of wastewater treatment facilities and drinking water treatment facilities.

b. To projects whose completion will provide significant improvement to water quality in the watershed.

c. To communities that employ an alternative wastewater treatment technology pursuant to Iowa Code section 455B.199C.

d. To communities where sewer or water rates are the highest as a percentage of that community's median household income.

e. To communities that employ technology to address the goals of the Iowa nutrient reduction strategy.

f. To communities whose drinking water facilities and systems use as a supply, or to projects whose completion will improve, source waters or waters on the state's impaired waters list.

28.3(3) *Awards.* Financial assistance in the form of grants will be issued on an annual basis. No recipient will receive a grant in excess of $500,000.

28.3(4) *Costs.* All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed.

28.3(5) *Record retention.* The recipient shall maintain records that document all costs associated with the project. The recipient shall agree to provide access to these records to the authority. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final disbursement of grant funds.

28.3(6) *Site access.* The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

[**ARC 4211C**, IAB 1/2/19, effective 2/6/19]

265—28.4(16) Termination; rectification of deficiencies; disputes.

28.4(1) *Termination.* The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director shall establish a repayment schedule for funds already disbursed to the recipient. All terminations shall be in writing.

28.4(2) *Rectification of deficiencies.* Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified deficiency is rectified. Once the deficiency is corrected, the funds can be released.

28.4(3) *Disputes.* A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

[**ARC 4211C**, IAB 1/2/19, effective 2/6/19]

These rules are intended to implement Iowa Code chapter 16.

[Filed 11/1/06, Notice 8/30/06—published 11/22/06, effective 12/27/06]

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[Filed ARC 4211C (Notice ARC 4090C, IAB 10/24/18), IAB 1/2/19, effective 2/6/19]

CHAPTER 29
DISASTER RECOVERY HOUSING ASSISTANCE

Chapter rescission date pursuant to Iowa Code section 17A.7: 7/5/28

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).

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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).

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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.

[**ARC 7021C**, IAB 5/31/23, effective 7/5/23]

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

[Filed emergency 9/19/08—published 10/8/08, effective 9/19/08]
[Filed emergency 10/1/08—published 10/22/08, effective 10/1/08]
[Filed Emergency ARC 7842B, IAB 6/17/09, effective 5/14/09]
[Filed Emergency ARC 7899B, IAB 7/1/09, effective 6/10/09]
[Filed ARC 8074B (Notice ARC 7900B, IAB 7/1/09), IAB 8/26/09, effective 9/30/09]
[Filed ARC 8075B (Notice ARC 7843B, IAB 6/17/09), IAB 8/26/09, effective 9/30/09]
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[Filed Emergency ARC 8907B, IAB 6/30/10, effective 6/10/10]
[Filed ARC 9029B (Notice ARC 8908B, IAB 6/30/10), IAB 8/25/10, effective 9/29/10]
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[Filed ARC 7021C (Notice ARC 6820C, IAB 1/11/23), IAB 5/31/23, effective 7/5/23]

CHAPTER 30
QUALIFIED MIDWESTERN DISASTER AREA BOND ALLOCATION
Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 31
COUNCIL ON HOMELESSNESS
Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 32
IOWA JOBS PROGRAM
Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 33
WATER QUALITY FINANCIAL ASSISTANCE PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—33.1(16,83GA,SF376) Overview.

33.1(1) *Statutory authority.* The authority to provide financial assistance to communities for water quality and wastewater improvement projects is provided by 2009 Iowa Acts, Senate File 376, section 13(4). The water quality financial assistance fund shall consist of funds appropriated from the revenue bonds capitals fund created in Iowa Code section 12.88.

33.1(2) *Purpose.* The purpose of the program shall be to provide grants to enhance water quality and to assist communities with water and wastewater improvement projects. Financial assistance under the program shall be used to provide additional assistance to communities receiving loans from the Iowa water pollution control works and drinking water facilities financing program.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09; **ARC 2006C**, IAB 5/27/15, effective 7/1/15]

265—33.2(16,83GA,SF376) Definitions.

"Authority" or *"IFA"* means the Iowa finance authority as established by chapter 16 of the Code of Iowa.

"Community" means a city, county, sanitary district, water district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of the governmental bodies or corporations acting jointly, in connection with a project.

"Department" or *"DNR"* means the Iowa department of natural resources.

"Director" means the director of the authority.

"Program" means the water quality financial assistance program created in 2009 Iowa Acts, Senate File 376, section 13(4).

"Recipient" means the entity receiving funds from the program.

"SRF" means the Iowa water pollution control works and drinking water facilities financing program, which is jointly administered by IFA pursuant to Iowa Code section 16.131 and DNR pursuant to Iowa Code section 455B.294.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09; **ARC 2006C**, IAB 5/27/15, effective 7/1/15]

265—33.3(16,83GA,SF376) Small community assistance fund.

33.3(1) *Program fund.* Of the amount appropriated, $35 million shall be allocated to the small community assistance fund. The maximum award for a recipient under the small community assistance fund shall be $2 million.

33.3(2) *Project eligibility.* Financial assistance shall only be available under the program for projects that are also receiving funding from the SRF.

33.3(3) *Eligible applicants.* Only communities with a population of 10,000 or less, as determined by the most recent federal census, may apply for the small community assistance fund.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09]

265—33.4(16,83GA,SF376) Large community assistance fund.

33.4(1) *Program fund.* Of the amount appropriated, $20 million shall be allocated to the large community assistance fund. The maximum award for a recipient under the large community assistance fund shall be $100 per capita. For purposes of these rules, the population of a community shall be assumed to be the United States Census Bureau's 2008 population estimate for that community.

33.4(2) *Project eligibility.* Eligible projects are those projects that are also receiving funding from the SRF.

33.4(3) *Eligible applicants.* Only communities with a population of more than 10,000, as determined by the most recent federal census, may apply for the large community assistance fund.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09; **ARC 8510B**, IAB 2/10/10, effective 1/14/10; **ARC 8725B**, IAB 5/5/10, effective 6/9/10]

265—33.5(16,83GA,SF376) Project priority.

33.5(1) *Priority for all projects.* Priority shall be given to projects that will provide significant improvement to water quality in the relevant watershed; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund set forth in 567—Chapter 91, Iowa Administrative Code. For drinking water projects, priority will be determined by the project priority system used for the drinking water state revolving fund set forth in 567—Chapter 44, Iowa Administrative Code. Priority will also be given to projects based on the date upon which construction could begin.

33.5(2) *Small community assistance fund priority.* Under the small community assistance fund, priority shall also be given to communities that have the greatest financial need. Factors used to determine need will include, but are not limited to: median household income as a percentage of the statewide median household income; residential user rates as a percentage of median household income; the existing and forecasted debt of the system; and the unemployment rate of the community.

33.5(3) *Large community assistance fund priority.* Under the large community assistance fund, priority will be given to communities that did not receive funds from the I-Jobs disaster recovery program, the community development block grant (CDBG) disaster allocation or the State Revolving Fund (SRF) federal American Recovery and Reinvestment Act (ARRA).

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09; **ARC 8510B**, IAB 2/10/10, effective 1/14/10; **ARC 8725B**, IAB 5/5/10, effective 6/9/10]

265—33.6(16,83GA,SF376) Project funding.

33.6(1) *Applications.* Applications will be accepted on forms developed by IFA and available at www.iowafinanceauthority.gov. IFA will coordinate with other applicable state or federal financing programs when possible. Applications for the large community assistance fund will be due October 30, 2009. Applications for the small community assistance fund will be due March 30, 2010.

33.6(2) *Costs.* All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed.

33.6(3) *Record retention.* The recipient shall maintain records that document all costs associated with the project. Recipients shall agree to provide the authority access to these records. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final grant payment.

33.6(4) *Site access.* The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09]

265—33.7(16,83GA,SF376) Termination and rectification of disputes.

33.7(1) *Termination.* The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director will establish a repayment schedule for funds already disbursed to the recipient. All terminations will be in writing.

33.7(2) *Rectification of disputes.* Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified problem(s) is rectified. Once the deficiency is corrected, the funds can be released. A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

[**ARC 8080B**, IAB 8/26/09, effective 9/30/09]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.131 and 2009 Iowa Acts, Senate File 376, section 13(4).

[Filed ARC 8080B (Notice ARC 7896B, IAB 7/1/09), IAB 8/26/09, effective 9/30/09]

[Filed Emergency ARC 8510B, IAB 2/10/10, effective 1/14/10]

[Filed ARC 8725B (Notice ARC 8511B, IAB 2/10/10), IAB 5/5/10, effective 6/9/10]
[Filed ARC 2006C (Notice ARC 1906C, IAB 3/4/15), IAB 5/27/15, effective 7/1/15]

CHAPTER 34
Reserved

CHAPTER 35
AFFORDABLE HOUSING ASSISTANCE GRANT FUND
Rescinded **ARC 2007C**, IAB 5/27/15, effective 7/1/15

CHAPTER 36
PUBLIC SERVICE SHELTER GRANT FUND
Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 37
RECOVERY ZONE BOND ALLOCATION
Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 38
IOWA JOBS II PROGRAM
Rescinded **ARC 9029C**, IAB 3/19/25, effective 4/23/25

CHAPTER 39
HOME INVESTMENT PARTNERSHIPS PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—39.1(16) Purpose. The primary purpose of the HOME investment partnerships program is to fund a wide range of activities that build, buy or rehabilitate (or both buy and rehabilitate) affordable housing for rent or homeownership or to provide direct rental assistance to low-income people.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13]

265—39.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

"Activity" means one or more specific housing activities, projects or programs assisted through the HOME investment partnerships program.

"Administrative plan" means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

"Affordability period" means the length of time a recipient or subrecipient must impose the rent or occupancy income restrictions on the units assisted by HOME funds as established by federal program requirements.

"CHDO" means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IFA, pursuant to 24 CFR 92.2 (July 24, 2013).

"Consolidated plan" means the state's housing and community development planning document and the annual action plan update approved by HUD.

"Contract" means a binding written agreement between IFA and the recipient or subrecipient for the purpose of utilizing HOME funds to build, buy or rehabilitate (or both buy and rehabilitate) affordable housing for rent or homeownership or to provide direct rental assistance to low-income people.

"HOME" means the HOME Investment Partnerships Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

"HUD" means the U.S. Department of Housing and Urban Development.

"IFA" means the Iowa finance authority.

"Low-income" means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD. An individual does not qualify as a low-income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; and is not otherwise individually low-income or does not have parents who qualify as low-income.

"Program income" means gross income received by the participating jurisdiction, state recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.

"Project" means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

"Recaptured funds" means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME program homebuyer funds does not continue to be the principal residence of the assisted homebuyer for the full affordability period.

"Recipient" means the entity under contract with IFA to receive HOME funds and undertake the funded housing activity.

"Repayment" means HOME funds which the recipient shall repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal program requirements.

"Subrecipient" means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance under the HOME program. A public agency or nonprofit organization that receives

HOME funds solely as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.3(16) Eligible applicants. Eligible applicants for HOME assistance include all incorporated cities and all counties within the state of Iowa, nonprofit 501(c) organizations, CHDOs, and for-profit corporations or partnerships. Any eligible applicant may apply directly to IFA.

[**ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities may include tenant-based rental assistance, rental housing rehabilitation, rental housing new construction and adaptive reuse, homebuyer assistance that includes some form of direct subsidy to the homebuyer, and other housing-related activities as may be deemed appropriate by IFA.

39.4(2) Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IFA.

39.4(3) Program income must be returned to IFA.

39.4(4) A site including any building located thereon or project acquired or used for rental activities must be held in fee simple title by the recipient upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient interest.

39.4(5) A site including any building located thereon or project acquired or used for homebuyer activities must be held in fee simple title by the recipient or homebuyer upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient or homebuyer interest.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9802B**, IAB 10/5/11, effective 9/16/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11; **ARC 0003C**, IAB 2/8/12, effective 1/20/12; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.5(16) Application procedure. HOME applications will be received from eligible applicants as often as the state expects funding from HUD. The applications must be submitted on the forms or online system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

[**ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.6(16) Application requirements. To be considered for HOME assistance, an application shall meet the following threshold criteria.

39.6(1) The application shall propose a housing activity consistent with the HOME fund purpose and eligibility requirements and the state consolidated plan.

39.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IFA reserves sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

39.6(3) Recipients of a homebuyer assistance activity must require the beneficiaries of the homebuyer assistance activity to use a principal mortgage loan product that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual homebuyer assistance projects.

b. The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME homebuyer assistance must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form of assistance, such as home equity loans. A homebuyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

c. Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) The loan must be a fully amortizing, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125%;

(2) No less than a 15-year, fully amortized, fixed-rate mortgage shall be used; and

(3) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.7(16) Application review criteria.

39.7(1) IFA shall evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity to be undertaken. The activity criteria shall be a part of the application. Training will be offered prior to the application deadline to provide information and technical assistance to potential applicants.

39.7(2) Notice of the availability of funding and the funding round requirements will be placed on IFA's Web site at www.iowafinanceauthority.gov.

[**ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.8(16) Allocation of funds.

39.8(1) IFA may retain up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

39.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

39.8(3) Subrecipients shall identify general administrative costs in the HOME application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME as technical services costs.

39.8(4) IFA reserves the right to negotiate the amount and terms of a HOME award.

39.8(5) IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

265—39.9(16) Administration of awards. Applicants selected to receive HOME awards shall be notified by letter from the IFA executive director or designee. A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME Program Guide for the specified activity and all applicable federal and state laws and regulations shall be part of the contract.

39.9(1) *Requests for funds.* Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Adequate and itemized documentation supporting the amount of funds requested shall be provided to and approved by IFA prior to release of funds. For rental projects, IFA may retain up to 10 percent of the total HOME award for up to 30 days after the recipient satisfactorily completes the work, all

HOME-assisted units have been initially occupied, and a final draw and completion form has been submitted to and approved by IFA.

39.9(2) *Construction sign.* IFA may require a construction sign meeting specifications outlined by IFA to be erected on the property at the initiation of construction or rehabilitation of rental projects.

[**ARC 8963B**, IAB 7/28/10, effective 7/8/10; **ARC 9284B**, IAB 12/15/10, effective 1/19/11; **ARC 9764B**, IAB 10/5/11, effective 11/9/11; **ARC 0500C**, IAB 12/12/12, effective 11/19/12; **ARC 1140C**, IAB 10/30/13, effective 12/4/13; **ARC 3425C**, IAB 10/25/17, effective 11/29/17]

These rules are intended to implement Iowa Code sections 16.5(1)*"f"* and 16.5(1)*"m"* and the Cranston-Gonzalez National Affordable Housing Act of 1990.

[Filed Emergency ARC 8963B, IAB 7/28/10, effective 7/8/10]
[Filed ARC 9284B (Notice ARC 9159B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]
[Filed Emergency ARC 9802B, IAB 10/5/11, effective 9/16/11]
[Filed ARC 9764B (Notice ARC 9644B, IAB 7/27/11), IAB 10/5/11, effective 11/9/11]
[Filed Emergency ARC 0003C, IAB 2/8/12, effective 1/20/12]
[Filed Emergency After Notice ARC 0500C (Notice ARC 0296C, IAB 8/22/12), IAB 12/12/12, effective 11/19/12]
[Filed ARC 1140C (Notice ARC 0997C, IAB 9/4/13), IAB 10/30/13, effective 12/4/13]
[Filed ARC 3425C (Notice ARC 3274C, IAB 8/30/17), IAB 10/25/17, effective 11/29/17]

CHAPTER 40
IOWANS HELPING IOWANS HOUSING ASSISTANCE PROGRAM

Rescinded **ARC 8902C**, IAB 2/19/25, effective 3/26/25

CHAPTER 41
SHELTER ASSISTANCE FUND

[Prior to 10/20/10, see 261—Ch 29]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—41.1(16) Purpose. The shelter assistance fund is created to support the costs of operations of shelters for the homeless and domestic violence shelters, essential services for the homeless, and evaluation and reporting of services for the homeless.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14; **ARC 3426C**, IAB 10/25/17, effective 11/29/17]

265—41.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

"Applicant" means an eligible provider of homeless services which is applying for program funds.

"Domestic violence shelter" means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

"ESG" means the Emergency Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

"HMIS" means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

"Homeless" or *"homeless individual"* shall have the meaning set forth in 24 CFR Part 91.

"Homeless shelter" means a facility which provides temporary shelter with overnight sleeping accommodations for homeless persons and which does not require occupants to sign leases or occupancy agreements.

"HUD" means the U.S. Department of Housing and Urban Development.

"IFA" means the Iowa finance authority.

"Nonprofit organization" means an organization:

1. No part of the net earnings of which inure to the benefit of any member, founder, contributor, or individual;
2. That has a voluntary board;
3. That has a functioning accounting system or has designated a fiscal agent that will maintain a functioning accounting system for the organization;
4. That practices nondiscrimination in the provision of assistance; and
5. That has registered with the state of Iowa as a nonprofit corporation.

"Program participant" means any person or family who is homeless or at risk of becoming homeless and who seeks assistance from a recipient and is provided assistance utilizing SAF funds.

"Recipient" means any organization to which IFA distributes program funds.

"SAF" means shelter assistance fund according to Iowa Code section 16.41.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 0183C**, IAB 6/27/12, effective 8/1/12; **ARC 1539C**, IAB 7/9/14, effective 8/13/14; **ARC 3426C**, IAB 10/25/17, effective 11/29/17]

265—41.3(16) Eligible applicants. City governments, county governments, local public housing authorities, instrumentalities of government, and nonprofit organizations are eligible applicants under the SAF program.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.4(16) Eligible activities. Eligible activities may include the following, where the activities are necessary to assist program participants:

1. Normal operating expenses for homeless and domestic violence shelters, including staff salaries, maintenance (including minor or routine repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies necessary for the operation of the shelter. Where no appropriate shelter is

available for a homeless family or individual, eligible costs may also include a hotel or motel voucher for that family or individual. Eligible costs may also include the costs of third-party agencies' providing food either to one or more shelters or directly to program participants.

2. Essential services for individuals and families in homeless and domestic violence shelters, including case management, child care, education services, employment assistance and job training, outpatient health services (to the extent that such health services are otherwise unavailable), legal services, life skills training, mental health services (to the extent that such mental health services are otherwise unavailable), substance abuse treatment services (to the extent that such substance abuse treatment is otherwise unavailable), and transportation (transportation that is necessary to provide services).

3. Evaluation of services for the homeless, including the implementation of the HMIS.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14; **ARC 3426C**, IAB 10/25/17, effective 11/29/17]

265—41.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of rule 265—41.4(16) is ineligible.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.6(16) Application procedures. IFA shall issue requests for applications periodically, as long as funds are available. Requests for applications may combine the ESG program with the SAF program. The applications shall be submitted on the forms or online system prescribed by IFA. Application requirements, priorities, and maximum and minimum grant awards will be established by IFA for each competition.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 9642B**, IAB 7/27/11, effective 7/8/11; **ARC 9828B**, IAB 11/2/11, effective 12/7/11; **ARC 0183C**, IAB 6/27/12, effective 8/1/12; **ARC 1539C**, IAB 7/9/14, effective 8/13/14; **ARC 3426C**, IAB 10/25/17, effective 11/29/17]

265—41.7(16) Application review process. The following procedures will be used in the review of applications for most purposes.

41.7(1) Review; threshold criteria; eligible activities.

a. Review of applications. Applications will be reviewed by a panel appointed by IFA. Applications will be reviewed based on priorities established during each competition round. Review criteria include, but are not limited to, program design, applicant experience and capacity, community partnerships and need, performance, and budget and grant management.

b. Threshold criteria. IFA will identify threshold criteria that all programs are required to meet in order to be eligible.

c. Activities eligible during funding cycle. Each competition round will specify which of the total eligible program activities will be supported.

41.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or the application may be disqualified.

41.7(3) Before making final funding recommendations, IFA may review applications with other state agencies or other groups with expertise in the area of serving homeless persons. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

41.7(4) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

41.7(5) IFA shall establish the period of funding for each competition.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.8(16) Matching contributions. IFA reserves the right to designate a portion or all of SAF funds to be used toward the matching contributions requirement imposed by HUD for ESG funds received by the state of Iowa. If SAF funds are designated as ESG matching contributions, they may not also be available to meet matching requirements of other grant moneys received by recipients. Recipients will be informed if SAF funds have been used toward the ESG matching requirement and will be responsible for ensuring compliance with the matching requirements of other grant programs. The designation of any portion of

SAF funds as ESG matching contributions does not change the amount, type, or recipient of any award; rather, it solely impacts a SAF grantee's potential to use SAF grant funds to meet the matching requirements of certain other grant programs.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 0183C**, IAB 6/27/12, effective 8/1/12; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.9(16) Funding awards.

41.9(1) *Authorization.* The IFA board of directors authorizes funding awards during each application cycle.

41.9(2) *Right to negotiate.* IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

41.9(3) *Special purpose awards.* IFA may, at its discretion, make funding awards for evaluation of services for the homeless, including the implementation of the HMIS, apart from the application procedures and application review process for other activities.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.10(16) Requirements placed on recipients.

41.10(1) *Participation by homeless individuals and families.* To the maximum extent possible, SAF program recipients are required to involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with SAF funds, in providing services assisted with SAF funds, and in providing services for occupants of facilities assisted with SAF funds.

41.10(2) *Termination of assistance and grievance procedure.* Recipients shall establish and implement a formal process to terminate assistance to individuals or families who violate program requirements. This process shall include a hearing that provides individuals a full opportunity to address issues of noncompliance.

41.10(3) *Data reporting system.* Recipients shall participate in the HUD-approved HMIS adopted by IFA as required in the executed contract, unless the recipient qualifies as a domestic violence shelter, in which case the recipient shall participate in required data collection and reporting activities using a comparable database as defined by HUD.

41.10(4) *Ensuring confidentiality.* Recipients shall develop and implement procedures to guarantee the confidentiality of records pertaining to any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any family violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

41.10(5) *Requirements for religious organizations.* Recipients shall not engage in religious proselytizing or counseling using SAF funds, nor require attendance at religious services as a requirement or condition to receive assistance with SAF funds, nor limit services or give preference to persons seeking assistance with SAF funds on the basis of religion.

41.10(6) *Prohibition against involuntary family separation.* If a shelter provides services to families with children under the age of 18, the age of a child under the age of 18 shall not be used as a basis for denying any family's admission to shelter.

41.10(7) *Lead-based paint.* Recipients shall follow the federal rules for lead-based paint, including the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters occupied by program participants.

41.10(8) *Habitability standards.* Recipients shall follow the federal rules for habitability, ensuring that shelters funded with SAF adhere to minimum habitability standards for being safe, sanitary, and adequately maintained, according to the regulations at CFR Part 576.403. Standards include considerations for the following: (1) structure and materials, (2) access, (3) space and security, (4) interior air quality, (5) water supply, (6) sanitary facilities, (7) thermal environment, (8) illumination and electricity, (9) food preparation, (10) sanitary conditions, and (11) fire safety.

41.10(9) *Other requirements.* IFA may, at its discretion, impose additional requirements on recipients, which will be described in the request for applications, the grant contract, or other guidance materials issued from time to time.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 9642B**, IAB 7/27/11, effective 7/8/11; **ARC 9828B**, IAB 11/2/11, effective 12/7/11; **ARC 0183C**, IAB 6/27/12, effective 8/1/12; **ARC 1539C**, IAB 7/9/14, effective 8/13/14; **ARC 3426C**, IAB 10/25/17, effective 11/29/17]

265—41.11(16) Compliance with applicable federal and state laws and regulations. All recipients shall comply with the Iowa Code with respect to activities performed under this program. Use of SAF program funds shall comply with the following additional requirements.

41.11(1) *Nondiscrimination and equal opportunity.* All recipients shall comply with the following:

a. The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Sections 3601-19 and implementing regulations; Executive Order 11063 and implementing regulations at 24 CFR Part 107 (June 1, 1999); and Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2002d) and implementing regulations at 24 CFR Part 1 (June 1, 1999).

b. Affirmative action requirements as implemented with Executive Orders 11625, 12432, and 12138 which require that every effort be made to solicit the participation of minority and women business enterprises (MBE/WBE) in governmental projects.

c. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. Sections 6101-07).

d. The prohibitions against discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

41.11(2) *Review of financial statements.* All recipients shall obtain from an independent certified public accountant an annual audit or an annual independent review of the agency's financial statements.

41.11(3) *Conflict of interest.* No person who exercises or has exercised any functions or responsibilities with respect to activities assisted under the SAF program, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the program, may obtain a financial interest or benefit from an assisted activity; have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or have a financial interest in the proceeds derived from an assisted activity, either for the person or for those with whom the person has immediate family or business ties, during the person's tenure or during the one-year period following the person's tenure. Persons covered shall include any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

265—41.12(16) Administration.

41.12(1) *Contracts.* Upon selection of an application for funding, IFA will initiate a contract. Recipients shall remain responsible for adherence to the requirements of the SAF program rules. These rules and applicable federal and state laws and regulations shall be deemed to be part of the contract. Certain activities may require that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

41.12(2) *Record keeping and retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the recipient and made available to IFA upon request. Proper record retention shall be in accordance with the following:

a. Records for any assisted activity shall be retained for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

b. Representatives of the state auditor's office and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a recipient pertaining to the receipt of assistance under these rules.

41.12(3) *Reporting requirements.* Recipients shall submit reports to IFA as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a recipient qualifies as

a domestic violence shelter, in which case the recipient shall submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. Recipients shall submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 41.12(5).

41.12(4) *Amendments to contracts.* Any request to amend a contract shall be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

41.12(5) *Remedies for noncompliance.* At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the recipient's use of program funds for activities not described in its application, the recipient's failure to complete approved activities in a timely manner, the recipient's failure to comply with any applicable state or federal rules or regulations, or the recipient's lack of continuing capacity to carry out the approved program in a timely manner. At its discretion, IFA may employ any of the following remedies for noncompliance:

a. Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.

b. Condition a future award.

c. Direct the recipient to stop incurring costs with grant funds.

d. Require that some or all of the awarded funds be remitted to the state.

e. Reduce the level of funds the recipient would otherwise be entitled to receive.

f. Elect not to provide future award funds to the recipient until appropriate actions are taken to ensure compliance.

g. Prohibit a future award of funds.

[**ARC 9162B**, IAB 10/20/10, effective 10/1/10; **ARC 9281B**, IAB 12/15/10, effective 1/19/11; **ARC 9642B**, IAB 7/27/11, effective 7/8/11; **ARC 9828B**, IAB 11/2/11, effective 12/7/11; **ARC 0183C**, IAB 6/27/12, effective 8/1/12; **ARC 1539C**, IAB 7/9/14, effective 8/13/14]

These rules are intended to implement Iowa Code sections 16.5(1)*"r"* and 16.41.

[Filed Emergency ARC 9162B, IAB 10/20/10, effective 10/1/10]
[Filed ARC 9281B (Notice ARC 9163B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]
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[Filed ARC 9828B (Notice ARC 9643B, IAB 7/27/11), IAB 11/2/11, effective 12/7/11]
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CHAPTER 42
EMERGENCY SOLUTIONS GRANT PROGRAM

[Prior to 10/20/10, see 261—Ch 24]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—42.1(16) Purpose. The Emergency Solutions Grant Program is a federal program of the U.S. Department of Housing and Urban Development, designed to assist individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. The Iowa finance authority is the recipient and administrator of ESG program funds allocated to the state of Iowa.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

"Applicant" means an eligible provider of eligible homeless services which is applying for funds through the ESG program.

"ESG program" means the Emergency Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

"HMIS" means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

"Homeless" or *"homeless individual"* shall have the meaning set forth in 24 CFR Part 91.

"HUD" means the U.S. Department of Housing and Urban Development.

"IFA" means the Iowa finance authority.

"Private, nonprofit organization" means an organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

"SAF" means the shelter assistance fund, as set forth in 265—Chapter 41.

"Subrecipient" means any private, nonprofit organization or city or county government to which IFA distributes ESG program funds.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.3(16) Eligible applicants. City governments, county governments, and private, nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter and other services eligible under the ESG program as determined by HUD.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12]

265—42.4(16) Eligible activities. Eligible activities may include only the following:

42.4(1) *Street outreach.* Provision of essential services necessary to reach out to unsheltered homeless people; to connect them with shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access shelter, housing, or an appropriate health facility.

42.4(2) *Shelter.* Provision of essential services to homeless families and individuals in shelters, the renovation of buildings to be used as emergency shelters for homeless families and individuals, and the operation of emergency shelters.

42.4(3) *Prevention of homelessness.* The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to prevent an individual or family from experiencing homelessness.

42.4(4) *Rapid re-housing.* The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to help an individual or family experiencing homelessness to move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) *Administrative costs.* A subrecipient may use a portion of a grant received for administrative purposes as determined by IFA. IFA reserves the authority for distribution of administrative funds.

42.4(6) *Homeless Management Information System (HMIS) projects.* IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 9633B**, IAB 7/27/11, effective 7/8/11; **ARC 9830B**, IAB 11/2/11, effective 12/7/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17; **ARC 5343C**, IAB 12/30/20, effective 2/3/21]

265—42.5(16) Ineligible activities. As a general rule, any activity that is not authorized under the provisions of the HEARTH Act of 2009 is ineligible to be carried out with ESG program funds.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 3427C**, IAB 10/25/17, effective 11/29/17; **ARC 5343C**, IAB 12/30/20, effective 2/3/21]

265—42.6(16) Application procedures. IFA will issue requests for applications periodically, as long as the state expects funding from HUD. Requests for applications may combine the ESG program with the SAF program. The application shall be submitted as prescribed by IFA. Application requirements, priorities, and maximum and minimum grant awards will be established by IFA for each competition.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 9633B**, IAB 7/27/11, effective 7/8/11; **ARC 9830B**, IAB 11/2/11, effective 12/7/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.7(16) Application review process. The following procedures will be used in the review of applications.

42.7(1) Review; threshold criteria; eligible activities.

a. *Review of applications.* Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. IFA may utilize a panel to review the applications. Review criteria include, but are not limited to, program design, applicant experience and capacity, community partnerships and need, performance, budget and grant management, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

b. *Threshold criteria.* IFA will identify threshold criteria that all programs must meet in order to be eligible.

c. *Activities eligible during funding cycle.* Each competition round will also specify which of the total eligible program activities will be supported during that competition round.

42.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

42.7(3) IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

42.7(4) IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

42.7(5) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must provide matching contributions, according to the requirements of each competition. In calculating the amount of matching funds, the following may be included: cash contributions expended for allowable costs of the subrecipient for the ESG program or noncash contributions, including the value of any real property, equipment, goods, or services contributed to the subrecipient's ESG program provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. IFA may allow an exemption of matching funds up to a maximum of $100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.9(16) Funding awards.

42.9(1) *Awards on behalf of multiple applicants.* A city or county government or nonprofit organization may be designated, at the discretion of IFA, to administer a contract for multiple applicants within a prescribed geographic area.

42.9(2) *Right to negotiate.* IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

42.9(3) *Special purpose awards.* IFA may, at its discretion, award any remaining funds as it sees fit within the ESG program regulations.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11]

265—42.10(16) Compliance with applicable federal and state laws and regulations. All subrecipients shall comply with the Iowa Code governing activities performed under this program and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations, as well as the revising regulations of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), as defined by 24 CFR Part 576. All subrecipients shall also comply with all applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

265—42.11(16) Administration.

42.11(1) *Contracts.* Upon selection of an application for funding, IFA will initiate a contract. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require that permits or clearances be obtained from other state or federal agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements.

42.11(2) *Record keeping and retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the funded program shall be retained by the subrecipient. Private, nonprofit subrecipients covered through an ESG program contract from a local city or county government or nonprofit organization are responsible for ensuring that pertinent records of their ESG program funds be made available to the administering city or county or nonprofit organization and to IFA upon request. Proper record retention must be in accordance with the following:

a. Records for any assisted activity shall be retained for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

b. Representatives of the Secretary of the U.S. Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office, and IFA shall have access to all books, accounts, documents, records, and other property belonging to or in use by a subrecipient pertaining to the receipt of assistance under these rules.

42.11(3) *Reporting requirements.* Subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

a. HMIS data reports. All subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a subrecipient qualifies as a domestic violence shelter, in which case the subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. Subrecipients must submit requests for funds during the contract period at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 42.11(5).

42.11(4) *Amendments to contracts.* Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

42.11(5) *Remedies for noncompliance.* At any time, IFA may, for cause, find that a subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the subrecipient's use of program funds for activities not described in its application, the subrecipient's failure to complete approved activities in a timely manner, the subrecipient's failure to comply with any applicable state or federal rules or regulations, or the subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At IFA's discretion, remedies for noncompliance may include the following:

a. Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.

b. Condition a future award.

c. Direct the subrecipient to stop incurring costs with grant funds.

d. Require that some or all of the awarded funds be remitted to the state.

e. Reduce the level of funds the subrecipient would otherwise be entitled to receive.

f. Elect not to provide future award funds to the subrecipient until appropriate actions are taken to ensure compliance.

[**ARC 9166B**, IAB 10/20/10, effective 10/1/10; **ARC 9282B**, IAB 12/15/10, effective 1/19/11; **ARC 9633B**, IAB 7/27/11, effective 7/8/11; **ARC 9830B**, IAB 11/2/11, effective 12/7/11; **ARC 0186C**, IAB 6/27/12, effective 8/1/12; **ARC 3427C**, IAB 10/25/17, effective 11/29/17]

These rules are intended to implement Iowa Code section 16.5(1)*"m"* and 42 U.S.C. Sections 11371 through 11378.

[Filed Emergency ARC 9166B, IAB 10/20/10, effective 10/1/10]
[Filed ARC 9282B (Notice ARC 9167B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]
[Filed Emergency ARC 9633B, IAB 7/27/11, effective 7/8/11]
[Filed ARC 9830B (Notice ARC 9635B, IAB 7/27/11), IAB 11/2/11, effective 12/7/11]
[Filed ARC 0186C (Notice ARC 0095C, IAB 4/18/12), IAB 6/27/12, effective 8/1/12]
[Filed ARC 3427C (Notice ARC 3276C, IAB 8/30/17), IAB 10/25/17, effective 11/29/17]
[Filed ARC 5343C (Notice ARC 5219C, IAB 10/7/20), IAB 12/30/20, effective 2/3/21]

CHAPTER 43
COMMUNITY HOUSING AND SERVICES FOR PERSONS WITH DISABILITIES REVOLVING LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—43.1(16) Purpose. Through its community housing and services for persons with disabilities revolving loan program, the authority seeks to further the availability of affordable housing and supportive services for Medicaid waiver-eligible individuals with behaviors that provide significant barriers to accessing traditional rental and supportive service opportunities. Loans from the community housing and services for persons with disabilities revolving loan program fund are to be used to provide financing to construct permanent supportive housing or develop infrastructure in which to provide supportive services, including through new construction, acquisition and rehabilitation of existing housing or infrastructure, or conversion or adaptive reuse. This chapter is intended to implement Iowa Code sections 16.5(1) and 16.49.

Pursuant to Iowa Code section 16.49(4)*"d,"* housing provided through a project under this chapter is exempt from the requirements of Iowa Code chapter 135O, Boarding Homes.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12; **ARC 2008C**, IAB 5/27/15, effective 7/1/15]

265—43.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

"Authority" means the Iowa finance authority.

"Department" means the Iowa department of human services.

"HOME" means the HOME Investment Partnership Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

"Infrastructure" means the building and permanent improvements necessary for the support of Medicaid waiver-eligible individuals.

"Medicaid waiver-eligible" means eligible to receive 19 United States Code Section 1915(c) home- and community-based services waivers under Iowa Administrative Code 441—Chapter 83.

"Permanent supportive housing" means a community-based dwelling that has supportive services for persons with disabilities. This type of supportive housing enables special needs populations to live as independently as possible in a permanent setting.

"PMIC" means psychiatric medical institutions for children.

"Program" means the community housing and services for persons with disabilities revolving loan program.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.3(16) Award of loan funds. It is the authority's intent to award loans under the program to those applicants that meet all of the requirements of this chapter and the published underwriting standards of the loan program. When an applicant for loan funds also qualifies for HOME program funds, the project must satisfy all application requirements of the HOME program adopted by the authority pursuant to rule 265—39.6(16). The authority intends to award the available funds under this program each year if applicants meet all applicable requirements.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.4(16) Application process. The authority anticipates that it will, at least annually, publicize the approximate amount of funds available under this program for the applicable fiscal year on the authority's Web site at www.iowafinanceauthority.gov. Any unallocated or recovered funds, or payments of interest and principal, or any combination thereof, may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis, beginning on or after September 1, 2011. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to develop and expand community housing and services for Medicaid waiver-eligible individuals.

Applicants may apply for joint funding of a project using both HOME program funds and funds loaned pursuant to this chapter.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.5(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program based on the following program guidelines; however, prior to submission of the loan application, a service provider must receive approval of a service plan to benefit the Medicaid waiver-eligible individuals who reside in the project. The service provider may apply for the loan fund; however, the service provider does not have to be the applicant for the loan fund. If the service provider is not the loan applicant, a memorandum of understanding must exist between the loan applicant and the service provider which shows an obligation on behalf of the service provider to deliver services to the Medicaid waiver-eligible individuals residing in the project and which shows that the loan applicant is obligated to offer housing to the Medicaid waiver-eligible individuals who need the services provided by the service provider.

43.5(1) Projects eligible for assistance must meet the following criteria:

a. Written approval must be obtained from the department for the proposed project prior to application for loan funds.

b. In order to be approved by the department, the project must demonstrate all of the following components:

(1) The project serves one of the following Medicaid waiver-eligible populations:

1. Individuals who are currently underserved in community settings, including individuals who are physically aggressive or have behaviors that are difficult to manage or individuals who meet the PMIC level of care; or

2. Individuals who are currently placed out of state by the department; or

3. Individuals who are currently receiving care in an Iowa-licensed health care facility.

(2) A plan to provide each Medicaid waiver-eligible individual with crisis stabilization services to ensure that the individual's behavioral issues are appropriately addressed by the provider.

(3) Policies and procedures that prohibit discharge of the Medicaid waiver-eligible individual from the waiver services provided by the project provider unless an alternative placement that is acceptable to the individual or the individual's guardian is identified.

c. In order to be approved by the department for application for funding for development of infrastructure in which to provide supportive services under this chapter, a project shall include all of the following components:

(1) Provision of services to Medicaid waiver-eligible individuals who meet the PMIC level of care.

(2) Policies and procedures that prohibit discharge of the Medicaid waiver-eligible individual from the waiver services provided by the project provider unless an alternative placement that is acceptable to the individual or the individual's guardian is identified.

43.5(2) The following types of activities are eligible for assistance:

a. Acquisition and rehabilitation.

b. New construction.

c. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

43.5(3) Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is $50,000, and the maximum loan amount is $500,000. The maximum loan term and amortization period are each 30 years.

b. The debt service ratio must be at least 1.25:1 for the authority's first mortgage, as calculated by the authority. In addition, the loan-to-value ratio of the project, as calculated by the authority, will be considered. Notwithstanding the above, the authority may, in its sole discretion, accept a lower debt service ratio based on the final underwriting of the project.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage, to the extent possible. Construction financing may be awarded to projects.

e. Recipients of assistance must agree to observe several covenants and restrictions all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. The recipient must provide adequate evidence that its title in the real estate on which the project is to be located is a marketable title pursuant to Iowa Land Title Examination Standards, or other applicable law. Adequate evidence of marketable title is demonstrated by either (1) a title opinion of an attorney authorized to practice law in Iowa showing that the loan recipient has marketable title, or (2) a title guaranty certificate issued by the title guaranty division of the Iowa finance authority showing the recipient as the guaranteed.

g. Recipients must execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

43.5(4) Loan fees.

a. Loan fees are as follows:

(1) Application fee – 0.3 percent of loan amount.

(2) Commitment fee (construction period) – 1.0 percent of loan amount.

(3) Commitment fee (permanent loan) – 2.0 percent of loan amount.

(4) Inspection fee (construction loan) – 0.5 percent of loan amount.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.6(16) Authority analysis of applications. Authority staff will analyze and underwrite each potential project and will make recommendations for funding assistance to the authority board of directors. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority anticipates that, because of the complex nature of each transaction and the particular set 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.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.7(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not to award assistance and to approve final loan terms.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

265—43.8(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

[**ARC 9690B**, IAB 8/24/11, effective 8/18/11; **ARC 9878B**, IAB 11/30/11, effective 1/4/12]

These rules are intended to implement Iowa Code sections 16.5(1) and 16.49.

[Filed Emergency ARC 9690B, IAB 8/24/11, effective 8/18/11]

[Filed ARC 9878B (Notice ARC 9692B, IAB 8/24/11), IAB 11/30/11, effective 1/4/12]

[Filed ARC 2008C (Notice ARC 1903C, IAB 3/4/15), IAB 5/27/15, effective 7/1/15]

CHAPTER 44
IOWA AGRICULTURAL DEVELOPMENT DIVISION

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—44.1(16) General.

44.1(1) *Description of Iowa agricultural development (IAD) board.* The IAD board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director's designee shall serve as an ex officio nonvoting member. Members are appointed for staggered six-year terms. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as the appointed members determine.

44.1(2) *Division organization and personnel.* The executive director of the authority may organize the division and employ necessary qualified personnel.

44.1(3) *General course and method of operations.* The IAD board generally meets on a monthly basis or at the call of the chairperson or whenever two appointed members so request. The purpose of the meetings shall be to review progress in implementation and administration of programs, to consider and act upon proposals for assistance, and take other actions as necessary and appropriate.

44.1(4) *Location where public may submit requests for assistance or obtain information.* Requests for assistance or information should be directed to the Iowa finance authority at the address set forth in rule 265—1.3(16); telephone (515)725-4900. Requests may be made personally, by telephone, U.S. mail or any other medium available, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Special arrangements for accessibility to the authority at other times will be provided as needed.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 4319C**, IAB 2/27/19, effective 4/3/19; **ARC 4902C**, IAB 2/12/20, effective 3/18/20]

265—44.2(16) Definitions.

"Act" means Iowa Code chapter 16.

"Agricultural asset" means agricultural land located in this state, any agricultural improvements, depreciable agricultural property, machinery, equipment, crops, or livestock.

"Agricultural development board" or *"IAD board"* means the agricultural development board created in Iowa Code section 16.2C and described in rule 265—44.1(16).

"Agricultural improvement" means any improvements, including buildings, structures or fixtures suitable for use in farming if located on any size parcel of agricultural land.

"Agricultural land" means land located in Iowa suitable for use in farming, any portion of which may include an agricultural improvement, and which is or will be operated as a farm.

"Agricultural lease agreement" or *"agreement"* means an agreement for the transfer of agricultural assets from an eligible taxpayer to a qualified beginning farmer as provided in Iowa Code section 16.79A.

"Application" means a completed instrument on a form approved by IADD.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Beginning farmer" means an individual, partnership, family farm corporation, or family farm limited liability company, with a low or moderate net worth that engages in farming or wishes to engage in farming.

"BFLP" means beginning farmer loan program.

"BFLP beginning farmer" means a beginning farmer who also meets the requirements of a first-time farmer as defined in Section 147(c) of the Internal Revenue Code.

"BFTC" means beginning farmer tax credit program.

"Bond purchaser" means any lender or any person, as defined in Iowa Code section 4.1(20), who purchases an authority bond under the individual agricultural development bond program.

"Cash rent agreement" means an agreement whereby operation of the agricultural asset is transferred via a fixed cash payment per annum.

"Commodity share agreement" means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production as payment for use of the agricultural asset.

"Eligible taxpayer" means a taxpayer who is eligible to participate in the beginning farmer tax credit program, including by meeting all the criteria provided in paragraph 44.6(1)*"a."*

"Farm" means a farming enterprise which is generally recognized as a farm rather than a rural residence.

"Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority.

"Flex lease agreement" means an agreement whereby operation of the agricultural asset is transferred via a combination of fixed cash payments and, at times, additional payment based on the production or other variables.

"IADD" means the Iowa agricultural development division of the Iowa finance authority.

"Lender" means any regulated bank, trust company, bank holding company, mortgage company, national banking association, savings and loan association, life insurance company, state or federal governmental agency or instrumentality, or other financial institution or entity authorized and able to make mortgage loans or secured loans in this state.

"Low or moderate net worth" means a net worth that does not exceed the maximum allowable net worth defined in this rule.

"LPP" means loan participation program.

"LPP loan" means the "last-in/last-out" loan participation requested by the lender from the authority.

"Maximum allowable net worth" means the maximum allowable net worth for each calendar year, which shall be increased or decreased from the previous year by an amount equal to the percentage increase or decrease (September to September) in the United States Department of Agriculture "Index of Prices Paid for Commodities and Services, Interest, Taxes, and Farm Wage Rates" reported as of October 1 of the immediately preceding calendar year. The maximum allowable net worth will be rounded to the nearest thousand dollars. The authority will post the maximum allowable net worth for each calendar year on its website at www.iowafinanceauthority.gov.

"Net worth" means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the net worth of the individual, partnership, limited liability company or corporation. Assets shall be valued at fair market value.

"Participated loan" means a loan or loans, any portion of which is participated to the authority by the lender.

"Qualified beginning farmer" means a beginning farmer who is eligible to participate in the beginning farmer tax credit program by meeting the criteria set forth in paragraph 44.6(1)*"b."*

"Total assets" means all assets including but not limited to cash, crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, net cash value of life insurance, machinery, equipment, cars, trucks, farm and other real estate including life estates and personal residence, value of beneficial interest in a trust, government payments or grants, and any other assets.

"Total assets" shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the lender. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of 10 percent may be made from fair market value of farm and other real estate.

"Total liabilities" means all liabilities including but not limited to accounts payable, notes or other indebtedness owed, taxes, rent, amount owed on any real estate contract or real estate mortgage, judgments, accrued interest payable, and any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.

In only those cases where the liabilities include an amount for deferred tax liability that causes the applicant's net worth to change from exceeding the maximum allowable net worth to an amount no greater than the maximum allowable net worth, the applicant is required to have a certified public accountant

prepare the financial statement and provide supporting calculations and documentation acceptable to the board.

"USDA" means the United States Department of Agriculture.

"USDA-NASS" means the United States Department of Agriculture's National Agricultural Statistics Service.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 2226C**, IAB 10/28/15, effective 12/2/15; **ARC 4902C**, IAB 2/12/20, effective 3/18/20; **ARC 6167C**, IAB 2/9/22, effective 1/7/22]

265—44.3(16) Beginning farmer loan program eligibility. A loan to or on behalf of a beginning farmer shall be provided only if the following criteria are satisfied:

1. The beginning farmer is an individual and a resident of Iowa.
2. The agricultural land and agricultural improvements or depreciable agricultural property the beginning farmer proposes to purchase will be located in the state.
3. The beginning farmer has sufficient education, training, or experience in the type of farming for which the beginning farmer requests the loan and must demonstrate that education, training, or experience to the satisfaction of the authority.
4. If the loan is for the acquisition of agricultural land, the beginning farmer has or will have access to adequate working capital, farm equipment, machinery, or livestock. If the loan is for the acquisition of depreciable agricultural property, the beginning farmer has or will have access to adequate working capital or agricultural land. In the loan application, the beginning farmer must demonstrate to the satisfaction of the authority that the beginning farmer has or will have access to adequate working capital, farm equipment, machinery, or livestock.
5. The beginning farmer shall materially and substantially participate in farming.
6. The agricultural land and agricultural improvements shall only be used for farming by the beginning farmer, the beginning farmer's spouse, or the beginning farmer's minor children.

[**ARC 4902C**, IAB 2/12/20, effective 3/18/20]

265—44.4(16) Beginning farmer loan program.

44.4(1) *Individual agricultural development bond program description.* This program is intended to allow BFLP beginning farmers to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP beginning farmer and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond which is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

44.4(2) *Application procedures.* The BFLP beginning farmer may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. If a BFLP beginning farmer meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP beginning farmer and the bond purchaser. The BFLP beginning farmer and bond purchaser must agree on the terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule. The terms may not be more onerous than terms charged to similar customers for similar loans, taking into account the tax-exempt nature of interest on the BFLP loan.

b. Following completion of the BFLP loan application by the BFLP beginning farmer and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

c. The authority's review will include, but not be limited to, whether:

(1) The BFLP loan applicant is a BFLP beginning farmer;

(2) The BFLP loan proceeds will be used for a qualified purpose under the Act, rules of the authority, and the Internal Revenue Code and IRS regulations relating to private activity bonds;

(3) The terms of the BFLP loan comply with these rules; and

(4) The bond purchaser meets the definition of a lender or bond purchaser.

d. The authority may require that the bond purchaser furnish any information which the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.

e. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

44.4(3) *Issuance of bond.* All bonds issued by the authority will conform to all applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a staff member, board member of the IADD, an appointee or employee of the authority, or other qualified hearing officer.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP beginning farmer. The principal and interest on the bond are a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP beginning farmer and the underlying collateral or other security furnished by or on behalf of the BFLP beginning farmer. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

44.4(4) *Priority of applications.* Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

44.4(5) *Procedures following bond issuance.* No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP beginning farmer may be required to certify to the authority that the proceeds were used by the BFLP beginning farmer for a qualified purpose.

44.4(6) *Assignment of BFLP loans by bond purchasers.* A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Servicing of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

44.4(7) *Assumption of BFLP loans, substitution of collateral and transfer of property.* BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP beginning farmer for a BFLP loan. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

44.4(8) *Right to audit.* The authority shall have at any time the right to audit the records of the bond purchaser and the BFLP beginning farmer relating to the BFLP loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 2226C**, IAB 10/28/15, effective 12/2/15; **ARC 4902C**, IAB 2/12/20, effective 3/18/20]

265—44.5(16) Loan participation program.

44.5(1) *Program summary.* The loan participation program is intended to assist lenders and beginning farmers by purchasing a portion of a loan made by a lender to a beginning farmer for the purchase of agricultural property.

a. *Supplement to beginning farmer's down payment.* The LPP loan can be used to supplement the beginning farmer's down payment so that the beginning farmer can more readily secure a loan (the "participated loan") from a lender.

b. *Last-in/last-out collateral position.* The program enables lenders to request a "last-in/last-out" LPP loan from the authority. The lender, on behalf of the beginning farmer, shall apply for the LPP loan on application forms provided by the authority.

c. Lender's certification. The lender and the beginning farmer shall certify that the information included in the application and any other documents submitted for consideration is true and correct to the best of their knowledge.

d. LPP loan in conjunction with BFLP loan. The loan participation program may be used in conjunction with the authority's beginning farmer loan program, provided the beginning farmer meets the criteria for both programs.

44.5(2) *Underwriting criteria.* Commercial underwriting criteria will be used as determined by the authority.

44.5(3) *Eligible projects and activities.*

a. Use of project. LPP loans must be for new purchases or new construction. Assets purchased or constructed with LPP loan funds must be used for agricultural purposes.

b. Agricultural land. The participated loan can be used for the purchase of agricultural land, which may include small acreages on which sufficient agricultural improvements are located to conduct a livestock operation. If a house is located on land for which an LPP loan is requested, an appraisal of the house will be made. If the appraised value of the house exceeds 50 percent of the appraised value of the property or total collateral, then the property will not be eligible for an LPP loan.

c. Agricultural improvements. The participated loan can be used for the construction or purchase of improvements located on agricultural land (which is suitable for use in farming). Examples of such improvements include, but are not limited to, the following: confinement systems for swine, cattle, or poultry; barns or other outbuildings; and grain storage facilities and silos.

d. Livestock used for breeding purposes. The participated loan can be used for the purchase of livestock for which an income tax deduction for depreciation is allowed in computing state and federal income taxes.

e. Machinery and equipment. The participated loan can be used for the purchase of agricultural machinery and equipment for which an income tax deduction for depreciation is allowed in computing state and federal income taxes. This machinery and equipment must be used in the beginning farmer's farming operation.

f. Interim financing by lender. Interim financing by the lender is allowed.

44.5(4) *Ineligible projects and activities.* The following program activities are ineligible:

a. Refinancing of existing debt. Refinancing of existing debt or new purchases which have been incurred by the borrower more than 60 days prior to approval of the LPP loan by the authority.

b. Financing personal expenses. Financing personal or living expenses and working capital to purchase such items as feed, seed, fertilizer, fuel, and feeder livestock.

c. Down payment funds for contract sale. Down payment for a contract sale, or in connection with a loan from a nonregulated lender.

44.5(5) *Program parameters.*

a. Purchase price impact. Maximum LPP loan amount and loan terms will be determined by the IAD board.

b. LPP interest rate. The IAD board will set the interest rate on the LPP loan.

c. LPP loans outstanding. Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed the maximum amount set by the IAD board.

44.5(6) *LPP loan application procedures.*

a. Financial statement. Lenders may use their own form of financial statement. The authority may require other forms deemed necessary and appropriate to document the eligibility of the beginning farmer and the beginning farmer's ability to make principal and interest payments.

If the beginning farmer or the beginning farmer's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the beginning farmer's farming operation, a financial statement from this entity must also be submitted with the application.

b. Income statement. A copy of the beginning farmer's prior three years' federal income tax returns (if available) shall be submitted.

c. Background letter. The application will also include a background letter on the beginning farmer, documenting to the satisfaction of the authority sufficient training, experience and access to capital.

d. Credit evaluation. The lender will evaluate the beginning farmer's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan.

e. Processing LPP loan applications. Applications for the program will be taken and processed by the authority on a first-come, first-served basis. The authority reserves the right to change the program or terminate the approval of LPP loans under the program at any time. Grounds for termination/suspension of the program would include, but not be limited to, reaching the maximum allowable limit for total outstanding LPP loans as established by the authority or changing the program by order of the Iowa general assembly or by rules promulgated by the authority.

f. Security for participated loans and use of security documents. The lender shall take any security, cosignatures, guarantees or sureties that are deemed necessary for any participated loan. Any guarantee of repayment or pledge of additional collateral required by the lender to secure the participated loan shall secure the entire participated loan.

g. Recording documents and fees. Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the beginning farmer or lender and not the authority. Also, the authority will have no responsibility with respect to the preparation, execution, or filing of any declaration of value or groundwater hazard statements.

44.5(7) *Loan administration procedures.*

a. Lender's responsibilities. The lender is responsible for servicing the participated loan following accepted standards of loan servicing and for transferring LPP loan payments to the authority.

(1) At the request of the authority, the lender shall:

1. On an annual basis, provide the authority with copies of a current financial statement or a current tax return, or both.

2. Provide copies of insurance to the authority with the lender named as loss payee. The lender will apply payments to the participated loan according to the IADD-approved amortization schedule(s) or on a pro-rata basis.

(2) The lender shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any participated loan instrument;

2. Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

3. Accelerate the maturity of the participated loan;

4. Sue upon any participated loan instrument;

5. Waive any claim against any beginning farmer, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

b. Payment due dates. Payment due dates for the LPP loan will be the same as for the lender's share of the loan.

c. Prepayment penalty. There is no penalty for early repayment of principal or interest.

d. Repayment proceeds and collateral. Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

e. Subsequent loans. Any loan or advance made by a lender to a beginning farmer subsequent to the beginning farmer's obtaining an LPP loan under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

f. Events of loan default.

(1) Default will occur when the participated loan payment is 30 days past due. Notice to cure will be sent by the lender to the beginning farmer with a copy sent to the authority; and the lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

(2) After a participated loan is in default for a period of 30 days, the lender shall file with the authority monthly reports regarding the status of the participated loan.

(3) The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan in such case.

g. Applying principal and interest payments. Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made according to the IADD-approved amortization schedule(s) or on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

h. Application of proceeds of loan liquidation. Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the authority's loan committee. All amounts recovered upon liquidation or foreclosure will be applied first to the unpaid balance of the lender's portion and then to the unpaid portion of the LPP loan's portion. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's LPP loan;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.

44.5(8) *Right to audit.* The authority shall have, at any time, the right to audit records of the lender and the beginning farmer relating to any participated loan made under the program.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 2226C**, IAB 10/28/15, effective 12/2/15; **ARC 4902C**, IAB 2/12/20, effective 3/18/20]

265—44.6(16) Beginning farmer tax credit program.

44.6(1) *Eligibility.*

a. Eligible taxpayer. A taxpayer is eligible to participate in the beginning farmer tax credit program if the taxpayer meets all of the following requirements:

(1) The taxpayer is a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to Iowa Code chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of the Iowa Code, including but not limited to Iowa Code chapter 10, 10D, or 501 or section 15E.207.

(2) The taxpayer has entered into an agricultural lease agreement with a qualified beginning farmer to lease agricultural land as provided in 2019 Iowa Acts, House File 768, section 9.

(3) The taxpayer has not been at fault for terminating a prior agreement under the program or another agreement in which the taxpayer was allowed to claim a tax credit under Iowa Code section 175.37 as it existed prior to January 1, 2015, or Iowa Code section 16.80 as it existed prior to January 1, 2018.

(4) If the agreement includes the lease of a confinement feeding operation structure as defined in Iowa Code section 459.102, the taxpayer is not a party to a pending administrative or judicial action, including a contested case proceeding under Iowa Code chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(5) The taxpayer is not a partner of a partnership, shareholder of a family farm corporation, or member of a family farm limited liability company that is the lessee of an agricultural asset that is part of an agricultural lease agreement. If a beginning farmer has an ownership interest in the agricultural asset that does not exceed 10 percent, the tax credit award is reduced by an amount equivalent to the beginning farmer's ownership percentage. For example, if a beginning farmer owns 9 percent of an agricultural asset that is the subject of the agricultural lease agreement, the tax credit award is reduced by 9 percent.

b. Qualified beginning farmer. A beginning farmer must meet all of the following criteria to be eligible for participation in the beginning farmer tax credit program:

(1) Is a resident of the state. If the beginning farmer is a partnership, all partners must be residents of the state. If the beginning farmer is a family farm corporation, all shareholders must be residents of the state. If the beginning farmer is a family farm limited liability company, all members must be residents of the state.

(2) Has sufficient education, training, or experience in farming. If the beginning farmer is a partnership, at least one partner who is not a minor must have sufficient education, training, or experience

in farming. If the beginning farmer is a family farm corporation, at least one shareholder who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm limited liability company, at least one member who is not a minor must have sufficient education, training, or experience in farming.

(3) Has access to adequate working capital and production items.

(4) Will materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, at least one of the partners, shareholders, or members who is not a minor must materially and substantially participate in farming.

(5) Does not own more than 10 percent ownership interest in an agricultural asset included in the agreement.

(6) Is of majority age pursuant to Iowa Code section 599.1 and is legally able to enter into a contract.

44.6(2) *General provisions.*

a. A beginning farmer tax credit is allowed only for agricultural assets that are subject to an agricultural lease agreement entered into by an eligible taxpayer and a qualifying beginning farmer participating in the beginning farmer tax credit program established pursuant to Iowa Code section 16.78. The tax credit is allowed regardless of whether the principal agricultural asset is soil, pasture, or a building or other structure used in farming.

b. A tax credit in excess of the eligible taxpayer's tax liability for the tax year is not refundable but may be credited to the tax liability for a period set forth in Iowa Code section 16.82, if unused in the tax year the credits are earned. A tax credit shall not be carried back to a tax year prior to the tax year in which the eligible taxpayer redeems the tax credit. The term of the credit shall begin in the crop year in which the IAD board approves the award. The maximum term of the credit shall not exceed the term of the agricultural lease agreement.

44.6(3) *Application.*

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the qualified beginning farmer.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name, address, and social security number or tax identification number. The taxpayer shall also indicate the length of the lease, the type of lease, and the location of the agricultural asset to be leased.

(2) Qualified beginning farmer information: name and address. In addition, the application shall have attached to it a copy of the qualified beginning farmer's current financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the qualified beginning farmer documenting to the satisfaction of the authority that the beginning farmer has sufficient education, training, or experience in farming and has access to adequate working capital and production items. This letter may be submitted by one or more of the following: the qualified beginning farmer, the taxpayer or another third party.

(3) A copy of the agricultural lease agreement that conforms to the requirements set forth in subrule 44.6(4).

c. Complete applications shall be processed in the order they are received by the authority.

d. Authority staff will review applications for completeness and eligibility and make recommendations to the IAD board. The IAD board will review applications and recommendations from authority staff and make recommendations to the authority. Upon review of the recommendations of the IAD board, the authority will approve, defer, or deny each application.

e. Any applicant wishing to appeal a decision of the IAD board can appeal directly to the IAD board.

f. Upon submission of the application or a request to amend an agricultural lease agreement, the authority shall collect the application fee. The authority shall collect fees in the amounts based upon the acreage of the land that is the subject of the agreement and the length of the lease, as indicated in the chart below.

Application Fees Chart

	Length of Lease in Years			
Leased Acres	**2**	**3**	**4**	**5**

100 or fewer	$300	$350	$400	$450
101 to 250	$400	$450	$500	$550
251 or more	$500	$550	$600	$650

g. For any amendment to a previously approved agricultural lease agreement, an amendment fee of $100 shall be paid at the time the amendment is submitted.

44.6(4) *Requirements of an agricultural lease agreement.*

a. The agricultural lease agreement must meet the following requirements:

(1) The agreement must include the lease of agricultural land located in this state or agricultural improvements located in this state and may provide for the rental of agricultural equipment as defined in Iowa Code section 322F.1.

(2) The agreement must include provisions which describe the consideration paid for the agreement in a manner that allows the authority to calculate the value of the lease in order to determine the tax credit amount as provided in Iowa Code section 16.82.

(3) The agreement must be in writing and signed by all parties.

(4) The agreement must be for at least two years, but not more than five years. The agreement may be renewed any number of times by the eligible taxpayer and qualified beginning farmer for a term of at least two years, but not more than five years. At the end of the approved agricultural lease agreement term, a new application must be submitted to the authority. However, an eligible taxpayer shall not participate in the program for more than 15 years. For the purposes of this subparagraph, an eligible taxpayer first participating in the beginning farmer tax credit program on or after January 1, 2019, as provided in 2019 Iowa Acts, chapter 161, for a tax year beginning on or after that date, may also participate in the program for not more than 15 years.

(5) The agreement shall not include a lease or rental of equipment intended as a security.

b. An eligible taxpayer may apply and be approved to enter into agreements with different qualified beginning farmers.

c. The agreement cannot be assigned, and the agricultural land subject to the agreement shall not be subleased.

d. The agricultural assets shall not be leased or rented at a rate that is substantially higher than the market rate for similar agricultural assets leased or rented within the same community. As used in this paragraph, when referring to an agricultural asset that is cropland, "substantially higher" means not more than 30 percent above the average cash rent paid for cropland rented in the same county according to the most recent cash rent survey for cropland published by a unit of Iowa State University of Science and Technology recognized by the authority.

44.6(5) *Changes to an agricultural lease agreement.*

a. The underlying lease for agricultural land may only be amended without submitting a new application if any of the following apply:

(1) The terms of the amended lease are more favorable to the qualified beginning farmer, including but not limited to the rent payment being reduced.

(2) A party has changed their name.

(3) The owner of an agricultural asset is changed to the owner's estate or trust upon the eligible taxpayer's death.

b. If the eligible taxpayer and the qualified beginning farmer are amending an agricultural lease agreement but none of the conditions of paragraph 44.6(5)*"a"* apply, then the eligible taxpayer must submit a new application for a tax credit.

c. If an amendment to an agreement changes the total amount that will be paid to the eligible taxpayer under the agreement, the eligible taxpayer shall notify the authority in a manner and form prescribed by the authority within 30 days of the date the amendment is executed by the parties.

(1) If the amendment will reduce the total amount paid to the eligible taxpayer under the agreement, the authority shall recalculate and reduce the eligible taxpayer's tax credit award under 2019 Iowa Acts, House File 768, section 12.

(2) If the amendment will increase the total amount paid to the eligible taxpayer under the agreement, the tax credit award shall not be increased unless the eligible taxpayer submits an amended application to

the authority on the relevant form available on the authority's website and that meets the requirements of 2019 Iowa Acts, House File 768, section 10. If the amended application is approved under 2019 Iowa Acts, House File 768, section 10, the authority may increase the amount of the tax credit award. The increased amount of the tax credit award shall be subject to the aggregate award limitation in 2019 Iowa Acts, House File 768, section 12, for the calendar year in which the increased award is made.

d. Paragraph 44.6(5)*"c"* does not apply to an amendment to an agreement that requires a new application under paragraph 44.6(5)*"b"* in order to be valid.

e. An eligible taxpayer or qualified beginning farmer may terminate an agreement as provided in the agreement or by law. The eligible taxpayer must notify the authority of the termination within 30 days of the date of termination in the manner and form prescribed by the authority.

f. Expiration of lease. Prior to the expiration of the lease, the qualified beginning farmer will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and qualified beginning farmer must reapply to continue the tax credit.

44.6(6) *Procedure for calculating tax credit awards.*

a. The amount of the tax credit for a cash rent agreement equals 5 percent of the amount of rent received for each year.

b. For a commodity share agreement, the amount of the tax credit shall equal 15 percent of the gross amount that the eligible taxpayer would receive as a rent payment from the sale of the eligible taxpayer's share of the crop in each harvest year.

c. To calculate the credit for a commodity share agreement, the authority will use the following assumptions:

(1) Fifty percent of the leased land is allocated to corn and 50 percent of the leased land is allocated to soybeans, unless the lease specifies a different allocation of corn and soybeans. If the lease specifies a different allocation of corn and soybeans, then the leased land will be allocated proportionally, in accordance with the terms of the lease.

(2) For all years of the lease, the prices used for corn and soybeans will be the average prices for the last five years excluding the highest and lowest prices based on the USDA-NASS statewide data calculated at the time the application is approved.

(3) For all years of the lease, the commodity yields used for corn and soybeans will be the past ten-year average per-bushel yields for the same county where the leased land is located excluding the years of highest and lowest per-bushel yields based on the USDA-NASS data calculated at the time the application is approved.

(4) If the lease specifies a crop other than corn and soybeans, the relevant price and yield data from USDA-NASS for that crop will be used.

d. To calculate the credit for a commodity share agreement, the authority will use the following formula: (1/2 acres leased multiplied by corn yield multiplied by corn price multiplied by percentage of owner's share multiplied by .15) plus (1/2 acres leased multiplied by soybean yield multiplied by soybean price multiplied by owner's share multiplied by .15) = the amount of the tax credit. If the lease specifies a different allocation of corn and soybeans, then the leased acres will be in accordance with the terms of the lease.

e. The amount of the tax credit for a flex lease agreement equals the sum of the following amounts:

(1) The portion of the lease that is based on rent will be calculated as a cash rent agreement.

(2) The portion of the lease that is based on crop yield will be calculated as a commodity share agreement.

(3) If the flexible or bonus portion of the lease is based on crop production, the annual yield used to calculate the bonus will be the yield defined in subparagraph 44.6(6)*"c"*(3). If the annual yield is above the yield needed to trigger the bonus, the taxpayer will be awarded additional tax credits. The formula for calculating the tax credit will be yield above lease bonus trigger multiplied by price multiplied by percentage of owner's share multiplied by 0.15.

(4) For other factors used in a flex lease agreement, the relevant data used will be the past ten-year average per-bushel yield for the same county where the leased land is located excluding the highest and lowest years based on the USDA-NASS data.

f. The amount of the tax credit shall be reduced by the percent ownership interest of the qualifying beginning farmer in the agricultural asset.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 2226C**, IAB 10/28/15, effective 12/2/15; **ARC 4902C**, IAB 2/12/20, effective 3/18/20; **ARC 6167C**, IAB 2/9/22, effective 1/7/22]

265—44.7(16) Beginning farmer custom farming tax credit program. Rescinded **ARC 4902C**, IAB 2/12/20, effective 3/18/20.

These rules are intended to implement Iowa Code sections 16.4A, 16.4B, 16.5D, and 16.75 to 16.84.

[Filed Emergency ARC 1112C, IAB 10/16/13, effective 9/26/13]
[Filed ARC 1400C (Notice ARC 1113C, IAB 10/16/13), IAB 4/2/14, effective 5/7/14]
[Filed ARC 2009C (Notice ARC 1905C, IAB 3/4/15), IAB 5/27/15, effective 7/1/15]
[Filed ARC 2226C (Notice ARC 2127C, IAB 9/2/15), IAB 10/28/15, effective 12/2/15]
[Filed ARC 4319C (Notice ARC 4196C, IAB 1/2/19), IAB 2/27/19, effective 4/3/19]
[Filed ARC 4902C (Notice ARC 4729C, IAB 10/23/19), IAB 2/12/20, effective 3/18/20]
[Filed Emergency After Notice ARC 6167C (Notice ARC 6067C, IAB 12/1/21), IAB 2/9/22, effective 1/7/22]

CHAPTER 45
MANUFACTURED HOUSING PROGRAM FUND

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—45.1(16) Purpose. The purpose of these rules is to allow the authority to allocate funds to financial institutions or lenders to finance the purchase by individuals of manufactured homes that are in compliance with all laws, rules, and standards that are applicable to manufactured homes. The fund is designed exclusively for manufactured homes sited on leased land located in the state of Iowa.
[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.2(16) Definitions.

"Authority" means the Iowa finance authority.

"Borrower" means one or more individuals borrowing or seeking to borrow money for the purchase of a manufactured home.

"Financial institution" means a financial institution as defined in Iowa Code section 12C.1 that has been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

"Fund" means the manufactured housing program fund created pursuant to Iowa Code section 16.45.

"Interlender loan" means the lending of funds by a financial institution to a lender, which funds are, in turn, to be loaned by the lender to a borrower to finance the purchase of a manufactured home.

"Lender" means a lender as defined in Iowa Code section 537.1301 that is licensed by the banking division of the department of commerce and that has not been approved as a depository of public funds pursuant to Iowa Code section 12C.2.

"Manufactured home" or *"manufactured housing"* means the same as defined in Iowa Code section 435.1.

"Mortgage loan" means a loan from a financial institution or lender to a borrower to finance the purchase of a manufactured home.

"Program" means the manufactured housing program.

"Revolving funds" means the funds created by Iowa Code sections 16.46 through 16.49.
[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.3(16) Sources of funds.

45.3(1) *Authorized transfers.* In addition to any moneys that may be appropriated to the fund, the authority is authorized by Iowa Code section 16.45 to transfer for deposit into the fund for any fiscal year any unencumbered and unobligated moneys in the revolving funds from the prior fiscal year. However, the maximum amount of moneys that may be so transferred for any fiscal year may not exceed the lesser of $1,000,000 or an amount equal to the total amount of any unencumbered and unobligated moneys in the revolving funds available for transfer from the previous fiscal year reduced by $1,000,000.

45.3(2) *Recapture and repayments—nonreversion.* Pursuant to Iowa Code section 16.45, recapture of awards and other repayments to the fund shall be deposited into the fund and are appropriated to the authority to be used for the program. Notwithstanding Iowa Code section 8.33, unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year shall not revert to any other fund but shall be available for expenditure in subsequent years. However, any unencumbered or unobligated moneys remaining in the fund on June 30 of any fiscal year that were transferred to the fund as described in subrule 45.3(1) shall revert to the revolving fund from which the transfer was made. Notwithstanding Iowa Code section 12C.7(2), interest or earnings on moneys in the fund or appropriated to the fund shall be credited to the fund.
[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.4(16) Program overview. The program is established as a means of facilitating affordable financing for the purchase of eligible manufactured homes to be sited on leased land located in the state of Iowa. By providing capital at a low interest rate in the form of linked deposits to financial institutions and

lenders, the program is intended to enable financial institutions and lenders, in turn, to offer lower interest rate mortgage loans to borrowers or to enable financial institutions to offer interlender loans to lenders, the proceeds of which are, in turn, to be loaned to borrowers at low interest rates to finance the purchase of manufactured homes. The authority's role is strictly that of a depositor, not a lender, loan guarantor, or loan participant.

[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.5(16) Eligible financing.

45.5(1) *Lender participation agreement.* Linked deposits shall be made pursuant to a lender participation agreement to be created by the authority. If the mortgage loan is to be made by a financial institution, the lender participation agreement shall be between the authority and the financial institution. If the mortgage loan is to be made by a lender, the lender participation agreement shall be between the authority, the lender, and a financial institution.

45.5(2) *Eligible loans.* To be eligible for a linked deposit under the program, a mortgage loan shall meet all of the following requirements:

a. The mortgage loan must be for the purchase of a manufactured home as the borrower's primary residence; refinancing is not eligible for the program;

b. The manufactured home must be sited on leased land located in the state of Iowa;

c. The term of the mortgage loan shall not exceed 30 years;

d. The mortgage loan shall be fully amortized;

e. The terms of the mortgage loan shall contain no prepayment penalties;

f. The interest rate payable on the mortgage loan shall not exceed 9 percent APR;

g. Fees charged by the financial institution or lender to cover its costs of originating the mortgage loan (closing fees, origination fees, etc.) shall, in the aggregate, not exceed 1 percent of the principal mortgage loan amount;

h. Closing agent/settlement fees paid to third-party closers, if any, shall not exceed $500;

i. Customary and reasonable closing costs shall be allowed; and

j. The financial institution or lender shall comply with all applicable fair lending laws and regulations.

[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.6(16) Linked deposits. The process to create a linked deposit shall be as follows:

45.6(1) Once a financial institution or lender has received a completed loan application from a borrower, the financial institution or lender shall notify the authority via a linked deposit reservation request. The reservation request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion. The authority shall review the reservation request; if the reservation request is approved, the authority shall tentatively reserve an amount in or available to the fund for up to 60 days for a linked deposit for the mortgage loan that was the subject of the request. No reservation shall be made if the requested mortgage loan amount exceeds the amount(s) in and available to the fund. The reservation shall be terminated if the mortgage loan does not close within the 60-day period. If the reservation request is not approved, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

45.6(2) The financial institution or lender that originated the mortgage loan shall review the borrower's mortgage loan application, applying ordinary manufactured housing lending underwriting criteria. If the loan application is approved by the financial institution or lender, the financial institution or lender shall submit a request to the authority for a linked deposit. The request shall be on a form which is created and may be periodically updated by the authority and which may be in a paper format or an online web-based format at the authority's discretion.

45.6(3) Upon receipt of a linked deposit request, the authority shall review the information provided and make a determination as to whether the mortgage loan is eligible under the program's criteria. If necessary, the authority may request additional information. If the mortgage loan is determined eligible, the authority shall, if necessary to make the linked deposit, transfer moneys from one or more of the revolving

funds, at the authority's discretion, into the fund to ensure there is a sufficient amount available in the fund to make the linked deposit. The authority shall then deposit with the financial institution an amount equal to the principal amount of the mortgage loan via automated clearing house (ACH) money transfer. The linked deposit shall not be security for the mortgage loan or for the interlender loan, if any, nor shall it be a loan guarantee. The lender or financial institution making the mortgage loan shall bear all financial risk for the mortgage loan. The financial institution shall bear all financial risk for any interlender loan. If the mortgage loan is determined ineligible, the authority shall notify the financial institution or lender that originated the mortgage loan and state the reason why the request was not approved.

45.6(4) The authority shall receive monthly bank statements for the linked deposit account.

45.6(5) The moneys in the linked deposit account shall remain in the account for the duration of the mortgage loan. Annually, as of June 30, the financial institution or lender that originated the mortgage loan shall notify the authority of the amount of principal that has been repaid on the mortgage loan during the previous 12 months. The authority shall then withdraw from the linked deposit account an amount equal to the principal that was repaid on the mortgage loan during the previous year so that the amount of the linked deposit equals the outstanding principal balance of the mortgage loan.

45.6(6) If a financial institution has more than one mortgage loan in the program, the linked deposits for those mortgage loans may be maintained in a single account.

45.6(7) The linked deposit for a mortgage loan shall be withdrawn in full if the mortgage loan is paid off, if the manufactured home purchased with the mortgage loan proceeds is destroyed, or if the borrower defaults on the mortgage loan.

45.6(8) The linked deposit account shall bear interest at a rate of not less than 1 percent per annum.

[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.7(16) Limits on linked deposits. In any state of Iowa fiscal year, the authority shall not deposit more than 50 percent of the moneys in or available to the fund with any one financial institution pursuant to the program; provided, however, that after the first six months of such fiscal year, the authority may make a linked deposit with any participating financial institution regardless of any amounts previously deposited with such financial institution.

[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

265—45.8(16) Availability of moneys for linked deposits. The obligation of the authority to deposit funds into a linked deposit account shall be subject to the availability of moneys either in the fund or transferrable to the fund from the sources set forth in Iowa Code section 16.45, under the limitations set forth in that section. The authority shall maintain a running total of the unreserved amounts in and available to the fund on the authority's website.

[**ARC 4168C**, IAB 12/5/18, effective 1/9/19]

These rules are intended to implement Iowa Code section 16.45.

[Filed ARC 4168C (Notice ARC 3973C, IAB 8/29/18), IAB 12/5/18, effective 1/9/19]

CHAPTER 46
WATER QUALITY FINANCING PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—46.1(16) Overview.

46.1(1) *Source of funds.* The water quality financing program shall consist of moneys transferred to the fund, loan interest and earnings, and moneys from other funds as provided by law.

46.1(2) *Purpose.* The purpose of the program shall be to provide financial assistance to enhance the quality of surface water and groundwater, particularly by providing financial assistance for projects designed to improve water quality by addressing point and nonpoint sources, with a higher prioritization provided to collaborative efforts.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.2(16) Definitions.

"Authority" means the Iowa finance authority.

"Cost" means all costs, charges, expenses, or other indebtedness incurred by a loan recipient and determined by the authority as reasonable and necessary for carrying out all works and undertakings necessary or incidental to the accomplishment of any project.

"Eligible entity" means a municipality or a landowner, as determined by the authority, a public utility as defined in Iowa Code section 476.1, a specified industry, or a rural water district or rural water association as defined in Iowa Code section 357A.1.

"Fund" means the water quality financing program fund created pursuant to Iowa Code section 16.153.

"Iowa nutrient reduction strategy" means the same as defined in Iowa Code section 455B.171.

"Loan recipient" means an eligible entity that has received a loan under the program.

"Municipality" means a governmental body such as a state agency or a political subdivision of the state. Municipality includes but is not limited to a city, city utility, county, soil and water conservation district, sanitary district, a subdistrict of any of the foregoing districts, a state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services or drinking water, or any entity jointly exercising governmental powers pursuant to Iowa Code chapter 28E or 28F, or any other combination of two or more governmental bodies or corporations acting jointly under the laws of this state in connection with a project.

"Program" means the water quality financing program created in Iowa Code chapter 16, subchapter X, part 4.

"Project" means any combination of improvements, structures, developments, tasks, actions, constructions, modifications, operations, or practices designed to improve water quality that are proposed by an eligible entity and approved by the authority. "Project" includes but is not limited to any of the following:

1. In the context of water pollution control facilities, the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner, including treatment works as defined in Section 212 of the federal Clean Water Act, or the implementation and development of management programs established under Sections 319 and 320 of the federal Clean Water Act, including construction and undertaking of nonpoint source water pollution control projects and related development activities authorized under those sections.

2. In the context of drinking water facilities, the acquisition, construction, reconstruction, extending, remodeling, improving, repairing, or equipping of waterworks, water mains, extensions, or treatment facilities useful for providing potable water to residents served by a water system, including the acquisition of real property needed for any of the foregoing purposes, and such other purposes and programs as may be authorized under the federal Safe Drinking Water Act.

3. A project, operation, or practice undertaken or carried out to address watershed protection, flood prevention, or water quality improvement.

4. A project meeting the requirements of a water resource restoration sponsor project under Iowa Code section 455B.199.

"Specified industry" means either of the following:

1. An entity engaged in an industry identified in the Iowa nutrient reduction strategy, as determined by the authority, which industry is or will be required pursuant to the Iowa nutrient reduction strategy to collect data on the source, concentration and mass of total nitrogen or total phosphorus in its effluent, and to evaluate alternatives for reducing the amount of nutrients in its discharge; or

2. An entity implementing technology or operational improvements to reduce nutrients in its discharge.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.3(16) Program administration.

46.3(1) *Cooperating agencies.* The fund shall be administered by the authority in cooperation with the department of natural resources and the department of agriculture and land stewardship.

46.3(2) *Interest rates and terms.* Interest rates and repayment terms shall be determined by the authority in cooperation with the department of natural resources and the department of agriculture and land stewardship. The interest rate shall be specified in the application. Loan and grant terms shall be negotiated with each loan recipient and grant recipient, as the case may be, but no loan shall have a term more than 20 years. Loans may be prepaid at any time with no penalty.

46.3(3) *Parts of project eligible for funding.* Only the part of the project that has a water quality protection or improvement component may be funded.

46.3(4) *Funding guidelines.* The fund shall be administered in such a manner as to provide a permanent source of water quality project financial assistance to eligible entities. Financial assistance shall be provided in the form deemed by the authority to be most convenient for the efficient financing of projects, including loans, forgivable loans, or grants.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.4(16) Project funding.

46.4(1) *Annual applications.* Applications shall be taken annually.

46.4(2) *Plan requirements.* Each application shall include a plan that meets the following requirements:

a. The plan shall include one or more projects that improve water quality in the local area or watershed. Projects shall use practices identified in the Iowa nutrient reduction strategy.

b. The plan shall describe in detail the manner in which the project will be financed and undertaken, including, as applicable, the sources of revenue directed to financing the improvements as well as the eligible entities that will be receiving the revenues and how such revenues will be spent on the project.

46.4(3) *Project agreements.* The financial assistance shall be provided to the project pursuant to a written agreement between the recipient and the authority, which shall include standard terms for the receipt of program moneys and any other terms the authority deems necessary or convenient for the efficient administration of the program.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.5(16) Financial agreements.

46.5(1) *Project requirements.* All projects financed under the program shall meet the following requirements:

a. The project owner shall be responsible for obtaining all necessary permits;

b. All eligible costs shall be documented to the satisfaction of the authority before proceeds may be disbursed;

c. The recipient shall maintain records that document all costs associated with the project. The recipient shall provide access to these records to the authority upon request. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final disbursement of funds; and

d. The recipient shall agree to provide the authority, the department of natural resources, and the department of agriculture and land stewardship or their agents access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements.

46.5(2) *Loan requirements.* All loans made by the authority to finance projects under the program shall meet the following requirements:

a. The loan shall be accompanied by an enforceability opinion of counsel in a form acceptable to the authority;

b. Repayment must begin within 30 days after project completion or by the date specified in the loan agreement; and

c. The loan shall be secured by a first lien upon the dedicated source of repayment which may rank on a parity basis with other obligations or, with the approval of the executive director of the authority, may be subordinate in right of payment to one or more of the recipient's other outstanding revenue obligations.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.6(16) Project scoring. The provision of financial assistance under the program shall take into account, as applicable, the number of municipalities, landowners, public utilities, specified industries, rural water districts, or rural water associations that constitute an eligible entity, and the eligible entity's financing capacity. The authority shall only provide financial assistance to eligible entities that have sufficient financing capacity and that submit an appropriate plan designed to improve water quality.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.7(16) Scoring criteria.

46.7(1) *Financial feasibility.* Thirty-five percent of the total possible points shall be based on financial feasibility of the proposed project. Elements considered under financial feasibility shall include but not be limited to:

a. Experience of the eligible entity in financial management;

b. A detailed project budget detailing all sources of funds as well as expected project costs. This would include information on whether other funding has been received, applied for or just identified;

c. A project timeline, including information on the development of plans and specifications for the project, needed approvals and permits, and project construction start and completion dates;

d. A maintenance plan for the project, including information on the likely useful life of the project, the party or parties responsible for maintaining the project, the cost of maintenance, and how those costs will be paid; and

e. In the case of loans, the source(s) of funds for loan repayment.

46.7(2) *Project collaboration.* Thirty percent of the total possible points shall be based on project collaboration. Elements considered under project collaboration shall include but not be limited to:

a. A description of all parties involved in the project, including the roles, responsibilities, qualifications and experience of each party;

b. A description of any formal agreements among the parties and the status of those agreements;

c. A statement of the financial commitments of each party in the entity with respect to the project, including contributions of cash, gifts, or loans; and

d. A description of whether the project is part of a larger coordinated effort to improve water quality.

46.7(3) *Water quality benefit.* Thirty-five percent of the total possible points shall be based on water quality benefit. Elements considered under the water quality benefit of the project shall include but not be limited to:

a. The identification of the specific watershed where the project will be located;

b. Whether a comprehensive watershed plan has been completed and water quality impairments have been identified for the watershed;

c. Whether the goals of the project are targeted to impact the identified impairments in the watershed, including a description of methods used to determine practices and the location of practices to reach those goals;

d. Information on how results of the project will be measured (e.g., by quantity of pollution being reduced or the percentage of pollution being reduced); and

e. A description of how the project will use practices identified in the Iowa nutrient reduction strategy.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

265—46.8(16) Termination; rectification of deficiencies; disputes.

46.8(1) *Termination.* The authority shall have the right to terminate and recapture any grant or loan proceeds when terms of the financial agreement have been violated. The executive director shall establish a repayment schedule for funds already disbursed to the recipient. All terminations shall be in writing.

46.8(2) *Rectification of deficiencies.* Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified deficiency is rectified. Once the deficiency is corrected, the funds may be released.

46.8(3) *Disputes.* A recipient that disagrees with the authority's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the executive director within 30 days of notification by the authority of its planned action.

[**ARC 4453C**, IAB 5/22/19, effective 6/26/19]

These rules are intended to implement Iowa Code sections 16.134A and 16.151 through 16.154.

[Filed ARC 4453C (Notice ARC 4372C, IAB 3/27/19), IAB 5/22/19, effective 6/26/19]

CHAPTER 47
HOUSING RENEWAL PILOT PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 4/26/28

265—47.1(89GA,HF2564) Purpose. Pursuant to 2022 Iowa Acts, House File 2564, division III, a housing renewal program fund is established under the control of the Iowa finance authority. The authority shall provide moneys from the fund to a nonprofit Iowa affiliate to award grants under the program. Grantees shall use the funds for the purpose of investing in housing rehabilitation and redevelopment for resale to an income-qualified buyer who occupies the home as the buyer's primary residence.
[**ARC 6956C**, IAB 3/22/23, effective 4/26/23]

265—47.2(89GA,HF2564) Definitions.

"Authority" means the Iowa finance authority created in Iowa Code section 16.1A.

"Eligible participant" means a city, a county, a consortium of local governments, or an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code with whom a nonprofit affiliate elects to partner.

"Grantee" means an eligible participant awarded a grant under the program.

"Nonprofit Iowa affiliate" or *"nonprofit affiliate"* means a nonprofit Iowa affiliate of a nonprofit international organization whose primary activity is the promotion of the construction, remodeling, or rehabilitation of one-family or two-family dwellings for use by low-income families.

"Redevelopment" means activities including new construction of housing on vacant or demolished properties on infill lots or the conversion of property from a nonresidential use to housing.

"Rehabilitation" means renovation, remodeling and repair of existing housing units for continued residential use.
[**ARC 6956C**, IAB 3/22/23, effective 4/26/23]

265—47.3(89GA,HF2564) Agreement.

47.3(1) The authority will prepare an agreement between the authority and the nonprofit affiliate. The agreement may include terms and conditions reasonably necessary for implementation of the program pursuant to this chapter and 2022 Iowa Acts, House File 2564.

47.3(2) Any substantive change to the nonprofit affiliate's proposed uses of funds shall require an amendment to the agreement. Amendments shall be requested in writing. No amendment shall be valid until approved by the authority.

47.3(3) The nonprofit affiliate must prepare an agreement for each project approved for an award. 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 chapter and 2022 Iowa Acts, House File 2564. The nonprofit affiliate and the grantee must execute an agreement before funds are disbursed by the nonprofit affiliate. The nonprofit affiliate must provide a copy of each agreement executed by the affiliate and a grantee to the authority within 30 days of execution.
[**ARC 6956C**, IAB 3/22/23, effective 4/26/23]

265—47.4(89GA,HF2564) Reporting.

47.4(1) The nonprofit affiliate must submit a report to the authority on or before November 30 of each year.

47.4(2) In addition to the requirements described in 2022 Iowa Acts, House File 2564, division III, the nonprofit affiliate must report on each of the following:

a. A description of each grantee's project and grantee's progress toward completion of its projects.

b. The sale price and sale closing date of each ownership unit.

c. The income level of each homebuyer purchasing an ownership unit.

d. The street address, city, zip code and county of each ownership unit.

e. The amount of funds awarded to each grantee.

f. The amount of funds expended by each grantee.

g. The amount of funds obligated by each grantee.

h. The amount of funds leveraged by each grantee.

i. Any other 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.

[**ARC 6956C**, IAB 3/22/23, effective 4/26/23]

These rules are intended to implement 2022 Iowa Acts, House File 2564, division III.

[Filed ARC 6956C (Notice ARC 6819C, IAB 1/11/23), IAB 3/22/23, effective 4/26/23]