

CHAPTER 65  
BROWNFIELD AND GRAYFIELD REDEVELOPMENT

**261—65.1(15) Purpose.** The brownfield redevelopment program is designed to provide financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites. The redevelopment tax credits program for brownfields and grayfields is designed to provide financial assistance for the acquisition, remediation, or redevelopment of brownfield and grayfield sites.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

**261—65.2(15) Definitions.** As used in these rules, unless the context otherwise requires, the definitions in Iowa Code section 15.292 shall apply to this chapter. The following definitions shall also apply:

*“Abandoned public building”* means a vertical improvement constructed for use primarily by a political subdivision of the state for a public purpose and whose current use is outdated or prevents a better or more efficient use of the property by the current owner. “Abandoned public building” includes vacant, blighted, obsolete, or otherwise underutilized property.

*“Acquisition”* means the purchase of brownfield or grayfield property.

*“Advisory council”* means the brownfield redevelopment advisory council as established in Iowa Code section 15.294 consisting of five members.

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

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

*“Authority”* means the economic development authority.

*“Board”* means the economic development authority board pursuant to 2011 Iowa Code Supplement section 15.102.

*“Brownfield site”* means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.

*“CERCLA”* means Comprehensive Environmental Response, Compensation, and Liability Act as defined at 42 U.S.C. 9601 et seq.

*“Characterization”* means determination of both the nature and extent of contamination in the various media of the environment.

*“Community”* means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

*“Contaminant”* means any hazardous substance found in the various media of the environment.

*“Council”* means the brownfield redevelopment advisory council, as established in Iowa Code section 15.294.

*“Fund”* means the brownfield redevelopment fund established pursuant to Iowa Code section 15.293.

*“Grant”* means the donation or contribution of funds with no expectation or requirement that the funds be repaid.

*“Grayfield site”* means an abandoned public building or an industrial or commercial property that meets all of the following requirements:

1. Infrastructure on the property is outdated or prevents an efficient use of the property, including vacant, blighted, obsolete, or otherwise underutilized property.
2. Property improvements and infrastructure are at least 25 years old and one or more of the following conditions exist:
  - Thirty percent or more of a building located on the property is available for occupancy and has been vacated or unoccupied for at least 12 months;

- Assessed value of improvements on the property has decreased by 25 percent or more;
- The property is used as a parking lot;
- Improvements on the property no longer exist.

“*Green development*” means development which meets or exceeds the sustainable design standards as established by the state building code commissioner pursuant to Iowa Code section 103A.8B.

“*Hazardous substance*” means “hazardous substance” as defined in 567—Chapter 137 and includes petroleum substances not addressed in 567—Chapter 135.

“*Loan*” means an award of assistance with the requirement that the award be repaid, and with term, interest rate, and any other conditions specified as part of the award. A deferred loan is one for which the payment of principal or interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A loan guarantee is a third-party commitment to repay all or a portion of the loan in the event that the borrower defaults on the loan.

“*Political subdivision*” means a city, county, township, or school district.

“*Previously remediated or redeveloped*” means any prior remediation or redevelopment, including development for which an award of tax credits under this chapter has been made.

“*Qualifying investment*” means costs that are directly related to a qualifying redevelopment project and that are incurred after the project has been registered and approved by the board. “Qualifying investment” only includes the purchase price, the cleanup costs, and the redevelopment costs.

“*Qualifying investor*” means an applicant who has been accepted by the department to receive a redevelopment tax credit.

“*Qualifying redevelopment project*” means a brownfield or grayfield site being redeveloped or improved by the property owner. “Qualifying redevelopment project” does not include a previously remediated or redeveloped brownfield or grayfield site.

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

“*Redevelopment tax credits program*” means the tax credits program administered pursuant to Iowa Code sections 15.293A and 15.293B.

“*Remediation*” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site. Funding awards used for remediation must comply with appropriate Iowa department of natural resources requirements and guidelines.

“*Risk evaluation*” means assessment of risks to human health and environment by way of guidelines established in 567—Chapter 137.

“*Sponsorship*” means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program in which the city or county agrees to offer assistance or guidance to the applicant. Sponsorship is not required if the applicant is a city or county.

“*Sustainable design*” means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

“*Vertical improvement,*” “*improvement*” or “*improved*” means the same as defined in Iowa Code section 15J.2.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 0944C, IAB 8/7/13, effective 9/11/13; ARC 1827C, IAB 1/21/15, effective 2/25/15]

**261—65.3(15) Eligible applicants.** To be eligible to apply for program assistance, an applicant must meet the following eligibility requirements:

**65.3(1) *Site owner.*** A person owning a site is an eligible applicant if the site for which assistance is sought meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Sponsorship is encouraged but not required for the redevelopment tax credits program for brownfields and grayfields.

**65.3(2) *Nonowner of site.*** A person who is not an owner of a site is an eligible applicant if the site meets the definition of a brownfield or grayfield site. The brownfield redevelopment program requires that an applicant has secured a sponsor prior to applying for program assistance. Prior to applying for financial assistance under the brownfield redevelopment program, an applicant who is not an owner of a site shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall at a minimum include:

- a. The total cost for remediating the site.
- b. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property. Title transfer is not required when the applicant is the owner of the property and no title transfer occurs.
- c. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

**65.3(3) *Phased projects ineligible for tax credits.*** Tax credits for brownfield and grayfield redevelopment are only available for qualifying redevelopment projects. Because a qualifying redevelopment project does not include a previously remediated or redeveloped site, a project for subsequent redevelopment at the same site for which tax credits have already been awarded is not eligible for additional tax credits on redevelopment at that site. The authority and the council will determine whether a project constitutes subsequent redevelopment at the same site by considering the following factors:

- a. Whether the redevelopment described in multiple proposed projects is planned for a single parcel.
- b. Whether the redevelopment described in multiple proposed projects is planned for adjacent or contiguous parcels or parcels in very close physical proximity.
- c. Whether all involved parcels are owned by the same entity, different entities, or affiliated entities.
- d. Whether a proposed project is the result of the same planning process as another project.
- e. Whether the proposed projects are being developed by the same entity, different entities, or affiliated entities.
- f. Whether the development of one proposed project reflects a temporal connection to another proposed project.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 0944C, IAB 8/7/13, effective 9/11/13; ARC 1827C, IAB 1/21/15, effective 2/25/15]

## **261—65.4(15) Eligible forms of assistance and limitations.**

**65.4(1) *Financial assistance.*** Eligible forms of financial assistance include grants, interest-bearing loans, forgivable loans, loan guarantees, tax credits, and other forms of assistance under the brownfield redevelopment program and the redevelopment tax credits program for brownfields and grayfields established in Iowa Code sections 15.292 and 15.293A.

**65.4(2) *Other forms of assistance.*** The authority may provide information on alternative forms of assistance.

**65.4(3) *Limitation on amount.*** An applicant shall not receive financial assistance of more than 25 percent of the agreed-upon estimated total cost of remediation, acquisition or redevelopment. This limitation does not apply to assistance provided in the form of tax credits pursuant to subrule 65.11(4).

**65.4(4) *Exclusions.*** Program funds shall not be used for the remediation of contaminants being addressed under Iowa's leaking underground storage tank (UST) program. However, a site's being addressed under the UST program does not necessarily exclude that site from being addressed under

the Iowa brownfield redevelopment Act if other nonpetroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

**261—65.5(15) Repayment to economic development authority.** Under the brownfield redevelopment program only, upon the subsequent sale of the property by an applicant to a person other than the original owner, the applicant shall repay the authority for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance actually disbursed to the applicant by the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

**261—65.6(15) General procedural overview.**

**65.6(1)** Subject to availability of funds, applications to the brownfield redevelopment program will be accepted, reviewed and scored by economic development authority staff and by the advisory council on an annual basis. Brownfield redevelopment funds will be scored on a competitive basis by the council, which will make recommendations on award amounts to the board.

**65.6(2)** Subject to availability of funds, applications to the redevelopment tax credits program for brownfields and grayfields will be accepted and reviewed by economic development authority staff and scored by the advisory council on an annual basis. For the fiscal year beginning July 1, 2014, applications must be received by March 1, 2015. For each fiscal year thereafter, applications will be accepted beginning on July 1 and must be received by September 1. Subject to the availability of funding, the authority may set additional application deadlines after September 1 and before the end of a fiscal year.

**65.6(3)** Applications for all forms of financial assistance will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. Recommendations from the advisory council will be submitted to the board. The board may approve, deny or defer an application.

**65.6(4)** Application forms for the brownfield redevelopment program and the redevelopment tax credits program for brownfields and grayfields are available upon request from Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Additional information is available on the authority's Internet site at [www.iowaeconomicdevelopment.com](http://www.iowaeconomicdevelopment.com).

**65.6(5)** The authority may provide technical assistance as necessary to applicants. Authority staff may conduct on-site evaluations of proposed activities.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

**261—65.7(15) Application to the brownfield redevelopment program—agreements.**

**65.7(1)** Every application for assistance shall include evidence of sponsorship and any other information the authority deems necessary in order to process and review the application. An application shall be considered received by the authority only when the authority deems it to be complete. Applications for assistance shall also include the following information:

*a.* A business plan. The business plan should, at a minimum, include a remediation plan, a project contact/applying agency, a project overview (which would include the background of the project area, goals and objectives of the project, and implementation strategy), and a project/remediation budget.

*b.* A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

**65.7(2)** The authority shall accept and review applications in conjunction with the council and the board. The council shall consider applications in the order complete applications are received and make application recommendations to the board. The council will score applications according to the application review criteria established pursuant to rule 261—65.9(15). The board shall approve or deny applications.

**65.7(3)** Approved applicants shall enter into an agreement with the authority.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15]

**261—65.8(15) Application to the redevelopment tax credits program—registration of projects—agreements.**

**65.8(1)** *System for application, review, registration, and authorization of projects.* The authority will administer a system for application, review, registration, and authorization of projects as described in this subrule and will only issue tax credit certificates pursuant to subrule 65.11(3).

a. The authority will accept and, in conjunction with the council, review applications for tax credits provided in Iowa Code section 15.293A and, with the approval of the council, make tax credit award recommendations regarding the applications to the board.

b. Applications for redevelopment tax credits will only be accepted during the established application period as provided in subrule 65.6(2).

c. Upon review of an application, the authority may register the project with the redevelopment tax credits program. If the authority registers the project, the authority may, in conjunction with the council, make a preliminary determination as to the amount of tax credit for which an award recommendation will be made to the board.

d. After registering the project, the authority will notify the investor of successful registration under the redevelopment tax credits program. The notification may include the amount of tax credit for which an award recommendation will be made to the board. If an award recommendation is included in the notification, such notification will include a statement that the award recommendation is a recommendation only. The amount of tax credit included on a tax credit certificate issued pursuant to this rule shall be contingent upon an award by the board and upon completion of the requirements in this rule.

e. (1) All completed applications will be reviewed and scored, pursuant to subrule 65.8(2), on a competitive basis by the council and the board. In reviewing and scoring applications, the council and the board may consider any factors the council and board deem appropriate for a competitive application process, including but not limited to the financial need, quality, and feasibility of a qualifying redevelopment project.

(2) For purposes of this rule:

1. “*Feasibility*” means the likelihood that the project will obtain the financing necessary to allow for full completion of the project and the likelihood that the proposed redevelopment or improvement that is the subject of the project will be fully completed.

2. “*Financial need*” means the difference between the total costs of the project less the total financing that will be received for the project.

3. “*Quality*” means the merit of the project after considering and evaluating its total characteristics and measuring those characteristics in a uniform, objective manner against the total characteristics of other projects that have applied for the tax credit provided in this chapter during the same established application period.

f. Upon reviewing and scoring all applications that are part of an annual application period, the board may award tax credits provided in this chapter.

g. If the applicant for a tax credit provided in this chapter has also applied to an agency of the federal government or to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the council, and the board will consider the amount of funding to be received from such public sources when making a tax credit award pursuant to this rule.

h. An applicant that is unsuccessful in receiving a tax credit award during an established application period may make additional applications during subsequent application periods. Such applicants must submit a new application and must be competitively reviewed and scored in the same manner as other applicants in that same application period.

**65.8(2)** *Scoring criteria.*

a. Each application for tax credits during each established application period will be scored according to criteria set forth in this paragraph. Points will be added together and the resulting score averaged with the scores of applications evaluated by all council members. Scoring criteria include:

- (1) The project's feasibility: 25 points.
- (2) The project's financial need: 25 points.
- (3) The project's quality: 25 points.

b. There is no minimum score required for a project to receive a recommendation for funding, but a higher score indicates that the council views a project more favorably. The council's funding recommendation will reflect its overall view of the project in relation to other applying projects.

**65.8(3) Required information.** An investor applying for a tax credit shall provide the authority with all of the following:

a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

b. Information about the financing sources of the investment which are directly related to the qualifying redevelopment project for which the investor is seeking approval for a tax credit, as provided in this chapter.

c. Any other information deemed necessary by the board and the council to review and score the application pursuant to this rule.

**65.8(4) Agreement required—recapture of credits.** If an investor is awarded a tax credit pursuant to this rule, the authority and the investor shall enter into an agreement concerning the qualifying redevelopment project. If the investor fails to comply with any of the requirements of the agreement, the authority may find the investor in default under the agreement and may revoke all or a portion of the tax credit award. The department of revenue, upon notification by the authority of an event of default, shall seek repayment of the value of any such tax credit already claimed in the same manner as provided in Iowa Code section 15.330(2).

**65.8(5) Project completion.** A registered project shall be completed within 30 months of the date the project was registered unless the authority provides additional time to complete the project. A project will not be provided more than 12 months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit pursuant to this chapter.

**65.8(6) Audit required.**

a. Upon completion of a registered project, an audit of the project, completed by an independent certified public accountant licensed in this state, must be submitted to the authority.

b. Upon review of the audit and verification of the amount of the qualifying investment, the authority will issue a tax credit certificate to the investor stating the amount of tax credit that the investor may claim.

[ARC 1827C, IAB 1/21/15, effective 2/25/15; ARC 4511C, IAB 6/19/19, effective 7/24/19]

**261—65.9(15) Application review criteria.** Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed and prioritized based on the following criteria:

1. Whether the project meets the definition of a brownfield site.
2. Whether alternative forms of assistance have been explored and used by the applicant.
3. The level of distress or extent of the problem on the site has been identified.
4. Whether the site is on or proposed to be added to the U.S. Environmental Protection Agency's list of CERCLA sites.
5. The degree to which awards secured from other sources are committed to the subject site.
6. The leveraging of other public and private resources beyond the 75 percent minimum required.
7. Type and terms of assistance requested.
8. Rationale that the project serves a public purpose.
9. The level of economic and physical distress within the project area.
10. Past efforts of the community/owner to resolve the problem.
11. Ability of the applicant to outline the goals and objectives of the project and describe the overall strategy for achieving the goals and objectives.

12. Ancillary off-site development as a result of site remediation.  
[ARC 7844B, IAB 6/17/09, effective 7/22/09]

**261—65.10(15) Administration of awards.**

**65.10(1)** A contract shall be executed between the recipient and the authority. These rules and applicable state laws and regulations shall be part of the contract.

**65.10(2)** The recipient must execute and return the contract to the authority within 45 days of transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

**65.10(3)** Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

**65.10(4)** Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

**65.10(5)** Awards may be conditioned upon the authority's receipt and approval of an implementation plan for the funded activity.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

**261—65.11(15) Redevelopment tax credit.**

**65.11(1)** *Purpose.* The purpose of the redevelopment tax credits program is to make tax credits available for a redevelopment project investment. The authority may cooperate with the department of natural resources and local governments in an effort to disseminate information regarding the redevelopment tax credit.

**65.11(2)** *Eligible applicant.* An individual, partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual may claim a redevelopment tax credit. Once an applicant is deemed eligible, the applicant shall be considered a qualifying investor for a redevelopment tax credit. A city or county may not apply for a redevelopment tax credit.

**65.11(3)** *Tax credit certificate.*

*a. Issuance.* The authority shall issue a redevelopment tax credit certificate upon completion of the project and submittal of proof of completion by the qualified investor. The tax credit certificate shall contain the qualified investor's name, address, tax identification number, the amount of the credit, the name of the qualifying investor, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

*b. Acceptance.* The tax credit certificate, unless rescinded by the board, shall be accepted by the Iowa department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and to Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this rule, for a portion of a taxpayer's equity investment in a qualifying redevelopment project.

*c. Transfer.* Tax credit certificates issued under this rule may be transferred to any person or entity. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the Iowa department of revenue, including a statement with the transferee's name, tax identification number, address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the Iowa department of revenue.

*d. Replacement certificate.* Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the Iowa department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate.

*e. Claiming a transferred tax credit.* A tax credit shall not be claimed by a transferee until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code

chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration paid or received for the transfer of the tax credit shall not be included or deducted as income under Iowa Code chapter 422, divisions II, III, and V, under Iowa Code chapter 432, or against the moneys and credits tax imposed in Iowa Code section 533.329.

**65.11(4) Amount of tax credit.**

*a. Pro rata share.* The qualified investor may claim the amount based upon the pro rata share of the qualified investor's earnings from the partnership, limited liability company, S corporation, estate, or trust. Except as provided in paragraph 65.11(4) "b," any tax credit in excess of the qualified investor's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the qualified investor receives the tax credit.

*b. Refundability.* A tax credit in excess of the taxpayer's liability for the tax year is refundable if all of the following conditions are met:

(1) The taxpayer is an investor making application for tax credits provided in this rule and is an entity organized under Chapter 504 and qualifying under Section 501(c)(3) of the Internal Revenue Code as an organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

(2) The taxpayer establishes during the application process described in this chapter that the requirement in subparagraph 65.11(4) "b"(1) is satisfied. The authority, when issuing a certificate to a taxpayer that meets the requirements in paragraph 65.11(4) "b," will indicate on the certificate that such requirements have been satisfied. A certificate indicating that it is refundable pursuant to paragraph 65.11(4) "b" shall not also be transferred to another taxpayer unless all the requirements of paragraph 65.11(4) "b" have been met.

*c. Percentage.* The amount of the tax credit shall equal one of the following:

- (1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.
- (2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).
- (3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.
- (4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in 261—65.2(15).

*d. Maximum credit per project.* The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed 10 percent of the maximum amount of tax credits available in any one fiscal year pursuant to paragraph 65.11(4) "e."

*e. Maximum credit total.* For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the authority shall not exceed \$1 million. For the fiscal year beginning July 1, 2011, the maximum amount of tax credits issued by the authority shall be an amount determined by the board but not in excess of \$5 million. For the fiscal year beginning July 1, 2013, and for each subsequent fiscal year, the maximum amount of tax credits issued by the authority shall be an amount determined by the board but not in excess of the amount established pursuant to Iowa Code section 15.119.

**65.11(5) Claiming a tax credit.** The qualified investor must include one or more tax credit certificates with the qualified investor's tax return. A tax credit certificate shall not be used or included with a return filed for a taxable year beginning prior to the tax year listed on the certificate. The tax credit certificate or certificates included with the qualified investor's tax return shall be issued in the qualified investor's name, expire on or after the last day of the taxable year for which the qualified investor is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the qualified investor's tax return.

**65.11(6) Reduction of tax credit.**

*a.* Taxes imposed under Iowa Code section 422.11V, less the credits allowed under Iowa Code sections 422.12, 422.33, 422.60, 432.12L, and moneys and credits imposed under Iowa Code section 533.329 shall be reduced by a redevelopment tax credit allowed under Iowa Code sections 15.291 to 15.294.



*b.* For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the redeveloped property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the credit computed under this rule.

**65.11(7) Project completion.**

*a.* An investment shall be deemed to have been made on the date the qualifying redevelopment project is completed. An investment made prior to January 1, 2009, shall not qualify for a tax credit under this rule.

*b.* A registered project shall be completed within 30 months of the project's approval unless the authority, with the approval of the board, provides additional time to complete the project. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit.

*c.* Failure to comply. If a taxpayer receives a tax credit pursuant to Iowa Code section 15.293A, but fails to comply with any of the requirements, the taxpayer loses any right to the tax credit. The Iowa department of revenue shall seek recovery of the value of the credit the qualified investor received.

**65.11(8) Tax credit carryover.** If the maximum amount of tax credits available has not been issued at the end of the fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or the authority may prorate the remaining credit amount among other eligible applicants.

**65.11(9) Authority registration and authorization.** The authority shall develop a system for registration and authorization of tax credits. The authority shall control distribution of all tax credits distributed to investors, including developing and maintaining a list of tax credit applicants from year to year to ensure that if the maximum aggregate amount of tax credits is reached in one year, an applicant can be given priority consideration for a tax credit in an ensuing year.

**65.11(10) Other financial assistance considerations.** If a qualified investor has also applied to the authority, the board, or any other agency of state government for additional financial assistance, the authority, the board, or the agency of state government shall not consider the receipt of a tax credit issued pursuant to this rule when considering the application for additional financial assistance.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12; ARC 1827C, IAB 1/21/15, effective 2/25/15; ARC 4511C, IAB 6/19/19, effective 7/24/19]

**261—65.12(15) Review, approval, and repayment requirements of redevelopment tax credit.**

**65.12(1)** A qualified investor seeking to claim a tax credit pursuant to Iowa Code sections 15.293A and 15.293B shall apply to the authority, and applications shall be reviewed by the council as established in Iowa Code section 15.294. The council shall recommend to the board the tax credit amount available for each qualifying redevelopment project.

**65.12(2)** A qualified investor shall provide to the authority, the council and the board all of the following:

*a.* Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

*b.* Information about the financing sources of the investment which is directly related to the qualifying redevelopment project for which the taxpayer is seeking approval for a tax credit, as provided in Iowa Code section 15.293A.

[ARC 7844B, IAB 6/17/09, effective 7/22/09; ARC 9746B, IAB 9/7/11, effective 8/19/11; ARC 0007C, IAB 2/8/12, effective 3/14/12]

These rules are intended to implement 2011 Iowa Code Supplement sections 15.291 to 15.295.

[Filed emergency 8/18/00—published 9/6/00, effective 8/18/00]

[Filed 10/23/00, Notice 9/6/00—published 11/15/00, effective 12/20/00]

[Filed ARC 7844B (Notice ARC 7706B, IAB 4/8/09), IAB 6/17/09, effective 7/22/09]

[Filed Emergency ARC 9746B, IAB 9/7/11, effective 8/19/11]

[Filed ARC 0007C (Notice ARC 9747B, IAB 9/7/11), IAB 2/8/12, effective 3/14/12]

[Filed ARC 0944C (Notice ARC 0686C, IAB 4/17/13), IAB 8/7/13, effective 9/11/13]

[Filed ARC 1827C (Notice ARC 1693C, IAB 10/29/14), IAB 1/21/15, effective 2/25/15]

[Filed ARC 4511C (Notice ARC 4281C, IAB 2/13/19), IAB 6/19/19, effective 7/24/19]