

CHAPTER 37
RECOVERY ZONE BOND ALLOCATION

265—37.1(16) General. The American Recovery and Reinvestment Act of 2009 created two types of recovery zone (“RZ”) bonds: recovery zone economic development (“RZED”) bonds and recovery zone facility (“RZ facility”) bonds. The applicable provisions are codified in Sections 1400U-1 – 1400U-3 of the Internal Revenue Code of 1986, as amended. The law provides that eligible issuers in Iowa may issue up to \$90 million of RZED bonds and up to \$135 million of RZ facility bonds. Through Notice 2009-50, the Internal Revenue Service published the applicable RZ bond allocations for Iowa, which amounts are included as Exhibit A to this chapter.

Pursuant to 2010 Iowa Acts, House File 2487 (the “Act”), the Iowa finance authority (“authority”) has been charged with tracking the issuance of RZ bonds and making certain allocations of RZ bonding authority to ensure maximum use of this resource in the state.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.2(16) Forms. Information and forms necessary for compliance with provisions of the law are available upon request from the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. The telephone number of the authority is (515)725-4900. Information and forms are also available at www.iowafinanceauthority.gov.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.3(16) Notice from the authority to issuers. The authority will provide written notice to each county and to each large municipality (defined as a city with a population exceeding 100,000) of the amount of RZ bonding authority that has been allocated to it by the Internal Revenue Service. This written notice will include information about waiving such authority, pursuant to rule 265—37.5(16), as well as notification of the requirement that issuers provide written notice to the authority of any issuance of RZ bonds.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.4(16) Notice from issuers to the authority. Within five business days of the issuance thereof (or within five business days of its receipt of the authority letter issued under rule 265—37.3(16), for those issuers that have issued RZ bonds prior to April 12, 2010), each county or large municipality that issues RZED bonds or RZ facility bonds (or that allocates RZ bond authority to a local issuer) shall give the authority written notice, on a form provided by the authority, detailing the amount and type of RZ bonds that were issued.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.5(16) Waiver of RZ bonding authority.

37.5(1) A county or large municipality that has received an allocation of RZ bonds may, prior to July 1, 2010, voluntarily waive all or part of such allocation to the authority by completing the applicable RZ bond waiver form provided by the authority.

37.5(2) As provided in the Act, any portion of a county or large municipality’s RZ bond allocation that has not been used by July 1, 2010, is deemed waived, and such amount will be subject to reallocation by the authority pursuant to rule 265—37.7(16). The authority will consider an allocation (or a portion thereof) used if the issuer for such allocation has taken substantive action toward issuance of the applicable RZ bonds. “Substantive action” includes, but is not limited to, (a) the adoption of resolutions or ordinances authorizing the sale or issuance of bonds, or (b) the completion of procedures, such as public hearings, referenda or related petition periods, to vest authority for the issuance of bonds.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.6(16) Application for allocation of recaptured or waived RZ bond authority.

37.6(1) An applicant or beneficiary, or the duly authorized agent of an applicant or beneficiary, requesting an allocation must make an application by filing the form entitled “Application for Recovery

Zone Bonds” available from the authority. Such applicant must possess the ability to issue RZ bonds under state and federal law.

37.6(2) As part of its application, the applicant must include a copy of the resolution or other official action designating the recovery zone for which the application is being made.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.7(16) Allocations.

37.7(1) The authority will track the amount and type of RZ bonds issued and the amount of RZ bonding authority available to be allocated.

37.7(2) Allocations will only be made for eligible projects in those counties that received an allocation of authority to issue RZ bonds pursuant to IRS Notice 2009-50. While the allocations will be limited to projects within those counties that originally received an allocation, the amount of the allocation from the authority will not be limited to the original allocated amounts under Notice 2009-50.

37.7(3) Allocations shall be made to eligible applicants on the basis of the chronological order of receipt of applications. Chronological order of receipt shall be determined by the date, hour and minute indicated by the time stamp as affixed to the application at the offices of the authority.

37.7(4) All applications that are received by the authority on or prior to April 12, 2010, pursuant to the provisions of rule 265—37.6(16) shall be considered simultaneously received at the opening of business on April 12, 2010, and the same date, hour and minute shall be stamped on each application so received. If the total amount of allocations requested in all of the applications received on such date exceeds the total amount determined by the authority as available to be allocated, the applications will be considered for allocation in the order determined pursuant to the procedures set forth in subrule 37.7(5).

37.7(5) In order to determine the order of allocation to two or more applications that are simultaneously received pursuant to subrule 37.7(4) and for which there is insufficient capacity to allocate to each the full allotment requested, each such application shall be assigned a preference number determined by a random drawing to be conducted at the authority’s offices within one week following the receipt of the applications. The authority shall notify the affected applicants in writing and shall post a notice at its offices of the time and place of the drawing not less than three days prior to the scheduled drawing. Any person desiring to attend and witness the drawing and assigning of preference numbers may do so. Each application shall be assigned an identification code that shall be written on the outside of the sealed envelope containing the application. The identification codes shall also be written on strips of paper and placed in individual envelopes and sealed. The sealed envelopes containing identification codes shall be placed in a container, mixed, and drawn from the 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 allotment. The application corresponding with the identification code that is selected second shall be placed second on the list, and so forth. Drawings shall continue until all applications are assigned a place on the list of applications received.

37.7(6) Applications received after April 12, 2010, shall be added to the appropriate list (whether for RZED bonds or RZ facility bonds) depending upon the subject of the application in the chronological order received.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.8(16) Certification of allocation. Upon receipt of a completed application and verification that sufficient RZ bonding authority exists for such application, the authority shall promptly certify to the applicant the amount of the RZED bond or RZ facility bond allocation, as applicable, awarded to the project for which the application was submitted. The authority shall continue to award allocations for eligible projects until the available recovery zone bonding authority is allocated. If the remaining capacity is not sufficient to fully fund an application which is next in order for allocation, the authority 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 authority of its decision to take the available allocation within five calendar days of receiving

notice of that option, an allotment shall be offered to the next application on the list under the same conditions.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.9(16) Expiration of allocations. An allocation of recovery zone bonding authority pursuant to this chapter shall remain valid for 120 days from the date of allocation. If the sale of bonds for which an allocation was made has not closed within such time, the allocation shall expire and the allotment shall revert to the authority to be reallocated, if possible; provided, however, that if the 120th day following the date of allocation 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 shall be extended to the first day thereafter which is not a Saturday, Sunday or previously described day.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.10(16) Resubmission of expired allocations. If an allocation expires, the applicant 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 applicant as a result of the prior application.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

265—37.11(16) Application and allocation fees. The Iowa finance authority may set and charge reasonable fees for providing administrative assistance with regard to the filing of applications and the allocation of the recovery zone bond allotments in accordance with these rules.

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

EXHIBIT A

	Recovery Zone Economic Development Bonds	Recovery Zone Facility Bonds
Iowa's Total Allocation	\$90,000,000	\$135,000,000
Large Municipalities		
Cedar Rapids	1,972,000	2,958,000
Des Moines	5,571,000	8,356,000
Counties		
Adair County	564,000	845,000
Adams County	0	0
Allamakee County	3,212,000	4,818,000
Appanoose County	0	0
Audubon County	382,000	574,000
Benton County	390,000	586,000
Black Hawk County	2,343,000	3,514,000
Boone County	0	0
Bremer County	447,000	670,000
Buchanan County	72,000	109,000
Buena Vista County	785,000	1,177,000
Butler County	411,000	616,000
Calhoun County	0	0
Carroll County	350,000	525,000
Cass County	0	0
Cedar County	0	0
Cerro Gordo County	0	0
Cherokee County	1,795,000	2,693,000

Iowa's Total Allocation	Recovery Zone Economic Development Bonds \$90,000,000	Recovery Zone Facility Bonds \$135,000,000
Chickasaw County	0	0
Clarke County	648,000	972,000
Clay County	0	0
Clayton County	0	0
Clinton County	0	0
Crawford County	0	0
Dallas County	1,731,000	2,596,000
Davis County	612,000	918,000
Decatur County	865,000	1,298,000
Delaware County	463,000	694,000
Des Moines County	3,550,000	5,325,000
Dickinson County	0	0
Dubuque County	4,363,000	6,545,000
Emmet County	0	0
Fayette County	1,115,000	1,672,000
Floyd County	2,500,000	3,749,000
Franklin County	1,220,000	1,829,000
Fremont County	821,000	1,232,000
Greene County	0	0
Grundy County	221,000	332,000
Guthrie County	306,000	459,000
Hamilton County	1,578,000	2,367,000
Hancock County	853,000	1,280,000
Hardin County	0	0
Harrison County	0	0
Henry County	1,409,000	2,113,000
Howard County	1,654,000	2,481,000
Humboldt County	1,320,000	1,980,000
Ida County	0	0
Iowa County	0	0
Jackson County	32,000	48,000
Jasper County	692,000	1,038,000
Jefferson County	1,163,000	1,745,000
Johnson County	0	0
Jones County	286,000	429,000
Keokuk County	403,000	604,000
Kossuth County	604,000	906,000
Lee County	2,793,000	4,190,000
Linn County	1,280,000	1,920,000
Louisa County	837,000	1,256,000
Lucas County	0	0
Lyon County	370,000	555,000
Madison County	435,000	652,000

Iowa's Total Allocation	Recovery Zone Economic Development Bonds \$90,000,000	Recovery Zone Facility Bonds \$135,000,000
Mahaska County	841,000	1,262,000
Marion County	857,000	1,286,000
Marshall County	2,431,000	3,647,000
Mills County	0	0
Mitchell County	962,000	1,443,000
Monona County	0	0
Monroe County	0	0
Montgomery County	588,000	882,000
Muscatine County	3,136,000	4,703,000
O'Brien County	149,000	223,000
Osceola County	0	0
Page County	2,274,000	3,411,000
Palo Alto County	547,000	821,000
Plymouth County	2,322,000	3,484,000
Pocahontas County	0	0
Polk County	6,992,000	10,487,000
Pottawattamie County	0	0
Poweshiek County	3,083,000	4,625,000
Ringgold County	246,000	368,000
Sac County	181,000	272,000
Scott County	0	0
Shelby County	0	0
Sioux County	946,000	1,419,000
Story County	0	0
Tama County	2,004,000	3,007,000
Taylor County	475,000	712,000
Union County	0	0
Van Buren County	125,000	187,000
Wapello County	910,000	1,365,000
Warren County	1,352,000	2,029,000
Washington County	0	0
Wayne County	0	0
Webster County	0	0
Winnebago County	1,304,000	1,956,000
Winneshiek County	4,090,000	6,134,000
Woodbury County	612,000	918,000
Worth County	0	0
Wright County	1,155,000	1,733,000

[ARC 8709B, IAB 5/5/10, effective 4/12/10; ARC 8962B, IAB 7/28/10, effective 9/1/10]

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2010 Iowa Acts, House File 2487.

[Filed Emergency ARC 8709B, IAB 5/5/10, effective 4/12/10]

[Filed ARC 8962B (Notice ARC 8710B, IAB 5/5/10), IAB 7/28/10, effective 9/1/10]