

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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