

123—4.6(15E) Contractual nature of certificates; irrevocability of tax credits. Upon the issuance of a certificate, the entitlement of a holder to use the tax credits represented by the certificate shall be final and permanent, subject only to the contingencies expressly stated or incorporated by reference in the certificate, and such entitlement shall not be subject to any further condition, reduction, modification, amendment, change, revocation, or recapture.

The entitlement of a holder to claim tax credits represented by a certificate shall constitute a contract between the state of Iowa on the one hand and such holder and the holder's successors and assignees on the other hand which shall not be subject to modification, amendment, change or rescission without prior written consent of the holder as of the date of any such purported action. No such modification, amendment, change or rescission to which a holder may have agreed shall be binding upon any of the successors or assignees of such holder unless it is stated in the text of the certificate issued to such successor or assignee.

The entitlement of a holder to claim tax credits represented by such certificate shall not be affected in any way or become subject to forfeiture or recapture by:

1. Action or inaction of the holder or designated investor;
2. The transfer by the designated investor of all or any portion of the designated investor's interest in a fund of funds;
3. The determination after the closing that a fund of funds was not organized or did not make its investments in accordance with the requirements of the Act or these rules;
4. The invalidity or illegality for any reason of the existence or functions of the board, the revolving fund, a fund of funds or the Iowa capital investment corporation or the investments made by a fund of funds or one or more of the portfolio entities;
5. The bankruptcy, insolvency, reorganization, merger, consolidation, dissolution or liquidation of the board, the revolving fund, any fund of funds, the Iowa capital investment corporation or any portfolio entity for any reason; or
6. The level, timing, or degree of success of any fund of funds or any portfolio entities, or the extent to which venture capital funds that are portfolio entities are invested in Iowa venture capital projects, or are successful in accomplishing any economic development objective.

If the legal existence of the board, the revolving fund, a fund of funds, the Iowa capital investment corporation or the department is ended or some or all of its respective functions are transferred to another entity at any time prior to the full use of 100 percent of the tax credits that could potentially be represented by all of the certificates, the board or its successor (or the state of Iowa if the legal existence of the board ends or the board ceases to have the requisite authority and there is no successor with such authority) shall adopt such rules as may be necessary to ensure the continuity and effectiveness of the entitlement of each holder to use the tax credits represented by such holder's certificate.

Upon the closing, a certificate shall be binding on the board, the department, and the state of Iowa, and the tax credits represented thereby shall not be modified, terminated, or rescinded or subject to recapture.