

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9, the Iowa Finance Authority hereby amends Chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Iowa Administrative Code.

The purpose of these amendments is to implement a per-applicant cap on allotments and to provide a set-aside to the Iowa Department of Economic Development for directing allotments of Midwestern Disaster Area bonds issued and sold pursuant to the Heartland Disaster Tax Relief Act of 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 24, 2010, as ARC 8549B. These rules were also Adopted and Filed Emergency and were published as ARC 8548B on the same date. The Authority received public comment on the proposed rules. In response to the public comment received, the Authority changed to the rules as published under Notice by adding the sentence “[t]his limitation shall not apply to any Project recommended by the Iowa department of economic development.” to the end of subrule 30.4(1)(a) .

The Iowa Finance Authority adopted these amendments on April 7, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number 9.

These rules will become effective on June 9, 2010, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend paragraph 30.3(1)“b” as follows:

b. Is a person ~~designated for purposes of Section 1400N(a) of the Internal Revenue Code by the governor as a person carrying on a trade or business~~ replacing a trade or business with respect to which another person suffered such a loss.

ITEM 2. Amend subrule 30.3(2) as follows:

30.3(2) In the case of a project relating to public utility property (as defined in Section 168(i)(10) of the Internal Revenue Code), to be eligible for an allotment, the applicant must certify that the project involves repair or reconstruction of public utility property damaged by the disasters.

ITEM 3. Amend rule 265—30.4(16) as follows:

265—30.4(16) Formula for allocation Allocation limit and Iowa department of economic development set-aside.

30.4(1) ~~Pro rata allocation. Per-applicant cap; set-aside.~~

a. Through December 31, ~~2009~~ 2011, allotments shall be limited to not more than \$200 million per applicant, with any related party, as defined under Section 267 of the Internal Revenue Code, being included within the meaning of applicant for the application of subrule 30.4(1). This limitation shall not apply to any Project recommended by the Iowa department of economic development. ~~allocated by the governor's designee on a pro rata basis among projects located in Iowa counties affected by the disasters. Projects in each county so affected shall be eligible, collectively, to receive in the aggregate a pro rata percentage (based on the percentage of housing assistance received by each county from the Federal Emergency Management Agency), as set forth on Schedule A at the end of this chapter, of \$2 billion of allotments. During such period, all remaining portions of the total aggregate face amount of MDA bonds permitted under the Act, beyond the \$2 billion referenced above, shall be available to all eligible projects, without regard to proration.~~

b. Through December 31, 2011, an amount of \$300 million shall be set aside and made available to applicants selected by the Iowa department of economic development. The director of the Iowa department of economic development shall notify the authority in writing of the name of each applicant that is to receive an allotment under subrule 30.4(1) and the amount allotted to each applicant. Promptly upon receipt of this written notice, the authority shall award the designated allotment to said applicant.

~~b- c.~~ Following December 31, 2009 2011, all remaining unallocated allotments under paragraph 30.4(1) “b” shall be available to all eligible projects, ~~without regard to proration.~~ Following December 31, 2011, the per-applicant cap set forth in paragraph 30.4(1) “a” shall not apply.

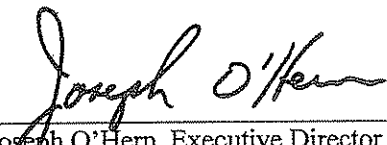
30.4(2) to 30.4(5) No change.

ITEM 4. Amend rule 265—30.6(16) as follows:

265—30.6(16) Certification of allocation. Upon receipt of a completed application, the governor’s designee shall promptly certify to the applicant the amount of the allotment allocated to the project for which the application was submitted. ~~The~~ Subject to subrule 30.4(1), the governor’s designee shall continue to allocate allotments for eligible projects until the allotments allocated equal the maximum aggregate face amount that may be designated as MDA bonds under the Act or until there are no more applications, whichever occurs first. If the remaining allotment capacity is not sufficient 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, an allotment shall be offered to the next application on the list under the same conditions ~~to the~~

~~applicant whose application is next on the list.~~ If the partial allocation is accepted, the applicant shall submit a new application for an additional allotment and that application will be added to the bottom of the list in the chronological order of its receipt. If the bonds are issued and delivered prior to the expiration date of the allocation, then the applicant or the applicant's attorney shall within ten days following the issuance and delivery of the bonds notify the governor's designee by filing the form captioned "Notice of Issuance and Delivery of Bonds."

ITEM 5. Rescind Schedule A at the end of 265—Chapter 30.



Joseph O'Hern, Executive Director
By Authority of the Board of the Iowa Finance Authority

April 7, 2010
Date