

IOWA FINANCE AUTHORITY [265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17) and 2004 Iowa Acts, Senate File 2298, 171, the Iowa Finance Authority hereby adopts a new Chapter 21, “Home and Community-Based Services Revolving Loan Program,” Iowa Administrative Code.

This amendment adopts a new chapter concerning the home and community-based services revolving loan program operated by the Authority. Through the home and community-based services revolving loan program, the Authority seeks to assist in the development and expansion of three specific community-based services (adult day services, respite services, and congregate meals) that will allow older persons of low income to remain in their homes. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the home and community-based services revolving loan program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

Notice of Intended Action was published in the August 4, 2004 Iowa Administrative Bulletin as **ARC 3556B**. The Authority held a public hearing over the Iowa Communications Network on August 24, 2004, to receive public comments on these rules. The Authority received written comments in addition to the oral comments received at the public hearing. These public comments addressed various aspects of the proposed chapter, including the loan term and amortization; interest rate; loan to value requirement; debt service coverage ratio; loan fees; the underwriting process; and other general comments on the new rules.

The Authority revised the draft rules based on the public comments received by changing the language concerning the manner in which the interest rate will be set.

The Authority adopted this amendment on September 8, 2004.

This amendment will become effective on November 3, 2004

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 171.

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 21

HOME AND COMMUNITY-BASED SERVICES REVOLVING LOAN PROGRAM

265—21.1(16) Purpose. Through its home and community-based services revolving loan program (program), the authority seeks to assist in the development and expansion of three specific community-based services (adult day services, respite services, and congregate meals) that will allow older persons of low income to remain in their homes. This chapter implements 2004 Iowa Acts, Senate File 2298, section 171, which adds Iowa Code section 16.183 to the authority's enabling statute and furthers the goals specified in Iowa Code section 231.3.

265—21.2(16) Available funds. The authority anticipates that it will, at least annually, publicize the approximate amount of funds available under this program for the applicable fiscal year on the authority's Web site at www.ifahome.com. Any unallocated or recovered funds, or payments of interest and principal, or any combination thereof may be awarded or may be carried over to the next year's cycle of loans at the discretion of the authority.

265—21.3(16) Intent of the authority. It is the authority's intent to allow maximum discretion and flexibility to be used by those applying for assistance under this program, and to allow

discretion and flexibility to be used by the authority in its analysis and awarding of assistance under this program. It is the position of the authority that such discretion and flexibility are essential to structuring transactions that will serve to develop and expand facilities and infrastructure that provide adult day services, respite services, and congregate meals that address the needs of persons with low incomes in a manner that best serves the citizens of the state.

265—21.4(16) Application procedure. Applications for assistance under this program must be made on forms and in the manner provided by the authority. Inquiries with respect to this program should be made to those persons identified on the authority’s Web site as contacts for this program. Once contacted with an inquiry, the authority will send an application package to the potential applicant. In the event it becomes necessary to amend the application, the authority will post the amended version of the application on its Web site. The authority will take such applications from time to time and will analyze and award loans to applicants on an ongoing basis, beginning on or after December 6, 2004. It is the position of the authority that such flexibility in taking and reviewing applications and making awards will best serve to develop and expand facilities and infrastructure that provide adult day services, respite services, and congregate meals that address the needs of persons with low incomes in the state.

265—21.5(16) Program guidelines. For-profit and nonprofit sponsors are eligible to apply for assistance under this program based on the following program guidelines:

21.5(1) Projects eligible for assistance must meet the following criteria:

a. In the case of adult day services, the project must:

- (1) Set aside 40 percent of the admissions for those with incomes at or below 40 percent of area median income (AMI) for the county in which the property is located;

- (2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;
- (3) Accept third party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441 -- Chapter 77; and
- (4) Become and remain certified as an adult day services provider, as set forth in 321 - Chapter 24.

b. In the case of respite services, the project must:

- (1) Provide services to underserved people in the community;
- (2) Establish a service fee that is affordable to those with incomes at or below 40 percent of AMI for the county in which the property is located, or agree to adjust fees based on a person's ability to pay;
- (3) Accept third-party reimbursement, including Medicaid 1915(c) waiver(s), and meet the standards set forth in 441 -- Chapter 77; and
- (4) Meet all local, state and federal requirements subject to health care limits of the proposed setting.

c. In the case of congregate meals, the project must establish and maintain a contract with the area agency on aging to provide congregate meals under the standards established for such a program under the federal Older Americans Act.

d. A demonstrated market need for the project must exist and the project must be in a good location, both as determined by the authority in its sole discretion.

e. Assistance provided under this program must enable the project to maintain financial feasibility and affordability for at least the term of the loan.

f. Maintenance and debt service reserve funds must be adequately funded, as determined by the authority in its sole discretion.

g. Programs shall comply with all applicable federal, state and local laws and rules related to the specified service or services offered by the sponsor.

21.5(2) The following types of activities are eligible for assistance:

- a. Acquisition and rehabilitation.
- b. New construction.
- c. Rehabilitation to expand a current program.
- d. Such other similar activities as may be determined by the authority to fall within the guidelines and purposes established for this program.

21.5(3) Assistance will be provided upon the following terms and conditions:

a. Generally, the minimum loan amount is \$50,000, and the maximum loan amount is \$1,000,000. The maximum loan term and amortization period are each 20 years.

b. The debt service ratio must be at least 1.30:1, as calculated by the authority. In addition, the loan-to-value ratio of the project, as calculated by the authority, will be considered. Notwithstanding the above, the authority may, in its sole discretion, accept a lower debt service ratio based on the final underwriting of the project.

c. Interest rates will be set by the authority, in its sole discretion.

d. Loans shall be secured by a first mortgage; provided, however, that in limited cases the authority may consider a subordinate mortgage when the first mortgage is held by another entity.

e. Recipients of assistance must agree to observe several covenants and restrictions, including but not limited to recorded affordability and transfer restrictions, all in accordance with such loan and mortgage documents as may be required by the authority under this program.

f. Each project receiving assistance must demonstrate a local contributing effort, as such term is used in Iowa Code section 16.4, of not less than 1 percent of the total loan amount.

g. Recipients shall execute such documents and instruments and must provide such information, certificates and other items as determined necessary by the authority, in its sole discretion, in connection with any assistance.

21.5(4) Loan fees.

a. Loan fees are as follows:

(1) Commitment fee (construction period) – 1.0 percent of the loan amount.

(2) Commitment fee (permanent loan) – 2.0 percent of loan amount.

(3) Inspection fee – 0.5 percent of construction loan amount.

(4) Application fee – 0.3 percent of total loan amount requested, payable with the submission of loan application.

b. The authority may, in limited cases, reduce such fees if necessary in connection with assistance provided under this program. Such decision will be made in the sole discretion of the authority.

265—21.6(16) Authority analysis of applications. Authority staff, in cooperation with the department of elder affairs staff, will analyze and underwrite each potential project and will make recommendations for funding assistance to the board of the authority. Authority staff will use such procedures and processes in its underwriting and analysis as it deems necessary and appropriate in connection with furthering the purposes of this program. In addition, the authority

anticipates that, because of the complex nature of each transaction, and the particular sets of circumstances attributable to each particular application/transaction, the terms and conditions of loans may vary from project to project. The authority will make available its general operating procedures and guidelines for this program.

265—21.7(16) Discretion of authority board. The authority board of directors has the sole and final discretion to award or not award assistance and to approve final loan terms.

265—21.8(16) Closing/advance of funds. If all requirements of the authority are not met in accordance with any time frames set by the authority and to the complete satisfaction of the authority, all in the sole discretion of the authority, the authority may determine to cease work on an approved project and, accordingly, not advance any funds for such project.

These rules are intended to implement Iowa Code section 16.5(17) and 2004 Iowa Acts, Senate File 2298, section 171.

Respectfully submitted,

Michael L. Tramontina, Executive Director
By Authority of the Board of the Iowa Finance Authority

September 9, 2004
Date