

IOWA FINANCE AUTHORITY [265]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” Iowa Code Supplement section 16.5(1)“r,” the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number Nine, the Iowa Finance Authority proposes to adopt new chapter 30, “Qualified Midwestern Disaster Area Bond Allocation,” Iowa Administrative Code.

The purpose of these rules is to implement a process for allocating the authority to issue and sell Midwestern Disaster Area bonds, as permitted by the Heartland Disaster Tax Relief Act of 2008.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on February 3, 2009. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed rules based on comments received from the public.

On December 17, 2008, the Authority adopted these amendments emergency, pursuant to Iowa Code section 17A.4(2), to be effective immediately upon filing with the administrative rules coordinator.

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

The following new rules are proposed.

ITEM 1. The following new chapter 30 is adopted.

CHAPTER 30
QUALIFIED MIDWESTERN DISASTER AREA BOND ALLOCATION

265—30.1(16) 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 allocating the authority to issue up to a specified amount of qualified Midwestern disaster area (“MDA”) bonds as defined in Section 1400N of the Internal Revenue Code, as amended by the Heartland Disaster Tax Relief Act (“act”) of 2008. The act was passed in response to the disasters attributable to the severe storms, tornados, and flooding that gave rise to any of the Presidential declarations of a major disaster on or after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and which were determined by the President to warrant individual or individual and public assistance from the

Federal Government under such act with respect to damages attributable to such severe storms, tornados, or flooding (collectively, the “disasters”). The act limits the aggregate face amount of bonds that may be designated as MDA bonds. The role of the governor’s designee is to allocate on behalf of particular projects authorization to issue specified allotments of MDA bonds from the total aggregate face amount permitted under the act. The authority to issue up to a specified face amount of MDA bonds, as allocated to a particular project pursuant to this chapter, may be referred to herein as an “allotment.” Procedures set out in the act and in these rules shall be followed in allocating allotments for the various purposes authorized by the act. The allotments shall be allocated among all eligible applicants for those various purposes in accordance with the act, Executive Order Number Nine, and these rules.

265—30.2(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.

265—30.3(16) Eligibility for allocation.

30.3(1) In the case of a project involving a private business use (as defined in section 141(b)(6) of the Internal Revenue Code), to be eligible for an allotment, the applicant must certify that the entity using the property either:

- a. suffered a loss in a trade or business attributable to the disasters; or
- 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.

30.3(2) In the case of a project relating to public utility property, 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.

30.3(3) For a project to be eligible for an allotment as a qualified mortgage issue, the applicant must certify that ninety-five percent (95%) or more of the net proceeds (as defined in section 150(a)(3) of the Internal Revenue Code) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to the disasters.

265—30.4(16) Formula for allocation.

30.4(1)

- a. Through December 31, 2009, allotments shall be 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 two billion dollars (\$2,000,000,000.00) of allotments. During such period, all remaining portions of the total aggregate face amount of MDA bonds permitted under the act, beyond the two billion dollars referenced above, shall be available to all eligible projects, without regard to proration.
- b. Following December 31, 2009, all remaining allotments shall be available to all eligible projects, without regard to proration.

30.4(2) Subject to subrule 30.4(1), above, allotments shall be allocated among eligible applications 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 governor’s designee.

30.4(3) All applications that are received by the Governor's designee on or prior to the effective date of these rules pursuant to the provisions of rule 30.5 shall be considered simultaneously received at the opening of business on the effective date hereof, and the same date, hour and minute shall be stamped on each application so received. If the total amount of allotments requested in all of the applications received for projects located in a particular county exceed the total amount that may be allocated for such county, the applications will be considered for allocation in the order determined pursuant to the procedures set forth in subrule 30.4(4).

30.4(4) In order to determine the order of allocation of the allotments to two or more applications that are simultaneously received pursuant to subrule 30.4(3) 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 Iowa finance authority 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 (3) 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 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.

30.4(5) The governor's designee shall maintain a list of applications for MDA bonds. Any applications that are deemed to be simultaneously received shall be listed in the order of preferences established pursuant to paragraph 30.4(4). Applications received after the effective date of this chapter shall be added to the appropriate list depending upon the subject of the application in the chronological order received.

265—30.5(16) Application for allocation.

30.5(1) An applicant must produce to the governor's designee an inducement resolution adopted by a governmental entity authorized to issue bonds.

30.5(2) An applicant or beneficiary, or the duly authorized agent of an applicant or beneficiary, must make an application by filing the form available from the governor's designee entitled, "Application for Midwestern Disaster Area Bonds," for the allocation of an allotment.

30.4(3) Applications may be submitted to the Iowa finance authority offices at any time. All applications received on or prior to the effective date of this chapter will be deemed received simultaneously as of the date, hour and minute of the opening of business of the Iowa finance authority on the first business day immediately following the effective date of this chapter.

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 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. 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."

265—30.7(16) Expiration of allocations. An allocation of an allotment pursuant to this chapter shall remain valid for 150 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 Governor's designee to be reallocated, if possible; provided, however, that if the 150th 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. All MDA bonds must be issued prior to January 1, 2013.

265—30.8(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.

265—30.9(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 qualified MDA bond allotments in accordance with these rules.

These rules are intended to implement Iowa Code Supplement section 16.5(1)"r," the Heartland Disaster Tax Relief Act of 2008, and Executive Order Number Nine.

SCHEDULE A

County	Percentage	Prorated Allocation by County	County	Percentage	Prorated Allocation by County
Adair	0.05%	\$1,074,026	Jasper	0.23%	\$4,631,735
Adams	0.23%	\$4,674,743	Johnson	3.98%	\$79,590,776
Allamakee	0.21%	\$4,156,780	Jones	0.48%	\$9,527,158
Appanoose	0.04%	\$747,338	Keokuk	0.07%	\$1,404,759
Audubon	0.06%	\$1,133,213	Kossuth	0.15%	\$3,000,532
Benton	1.64%	\$32,740,358	Lee	0.16%	\$3,257,562
Black Hawk	9.70%	\$194,054,143	Linn	44.60%	\$892,040,740
Boone	0.54%	\$10,777,646	Louisa	4.63%	\$92,624,989
Bremer	3.19%	\$63,744,156	Lucas	0.04%	\$889,986
Buchanan	0.46%	\$9,222,892	Madison	0.26%	\$5,295,901
Butler	3.34%	\$66,760,309	Mahaska	0.43%	\$8,699,165
Cass	0.11%	\$2,114,597	Marion	0.17%	\$3,386,283
Cedar	0.96%	\$19,192,565	Marshall	0.55%	\$10,943,327
Cerro Gordo	2.07%	\$41,305,912	Mills	0.22%	\$4,393,101
Chickasaw	0.16%	\$3,282,728	Mitchell	0.11%	\$2,124,981
Clarke	0.10%	\$2,021,648	Monona	0.01%	\$247,739
Clayton	0.39%	\$7,857,848	Monroe	0.03%	\$674,240
Clinton	0.06%	\$1,216,146	Montgomery	0.42%	\$8,327,805
Crawford	0.20%	\$4,028,327	Muscatine	2.75%	\$54,984,728
Dallas	0.16%	\$3,218,488	Page	0.49%	\$9,836,391
Davis	0.13%	\$2,513,664	Polk	3.85%	\$76,915,389
Decatur	0.21%	\$4,254,072	Pottawattamie	0.36%	\$7,280,971
Delaware	0.34%	\$6,739,264	Poweshiek	0.02%	\$480,377
Des Moines	0.74%	\$14,707,356	Ringgold	0.12%	\$2,329,089
Dubuque	0.33%	\$6,680,045	Scott	0.82%	\$16,453,959
Fayette	0.21%	\$4,203,440	Story	0.19%	\$3,708,021
Floyd	1.04%	\$20,891,361	Tama	0.51%	\$10,234,877
Franklin	0.18%	\$3,695,485	Union	0.66%	\$13,170,557
Fremont	0.16%	\$3,220,685	Van Buren	0.10%	\$1,974,627
Greene	0.33%	\$6,594,291	Wapello	1.67%	\$33,302,069
Grundy	0.06%	\$1,199,398	Warren	0.50%	\$10,059,673
Guthrie	0.14%	\$2,799,423	Washington	0.07%	\$1,499,955
Hamilton	0.30%	\$5,949,382	Webster	0.38%	\$7,698,165
Hancock	0.72%	\$14,429,005	Winnebago	0.02%	\$302,939
Hardin	0.45%	\$8,906,363	Winneshiek	0.81%	\$16,171,583
Harrison	0.05%	\$913,768	Worth	0.25%	\$5,098,893
Henry	0.07%	\$1,442,759	Wright	0.31%	\$6,229,906
Howard	0.16%	\$3,228,067			
Humboldt	0.08%	\$1,535,763			
Iowa	0.19%	\$3,795,095			
Jackson	0.01%	\$184,501	Totals:	100.00%	\$2,000,000,000

Respectfully submitted,

Bret L. Mills, Executive Director

By Authority of the Board of the Iowa Finance Authority

Date