Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 10 and adopt a new chapter in lieu thereof. The proposed chapter eliminates language that is duplicative of statutory language, eliminates unnecessary and inconsistent language, removes unnecessarily restrictive terms, and updates outdated language. The proposed chapter also includes a statement on the availability of acquiring a reissued mortgage credit certificate (MCC) upon the refinancing of the original mortgage. The proposed chapter also includes a new rule designating references to certain Authority internal program documents.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Eligible borrowers will bear the costs of the application fee and potentially (at the discretion of the participating lender) the commitment fee. Participating lenders will bear the costs of the annual participation fee.

- **Classes of persons that will benefit from the proposed rulemaking:**

Eligible borrowers and participating lenders may benefit from the improved clarity of the chapter.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The proposed rulemaking will have a quantitative impact on eligible borrowers by requiring them to incur the costs of the application fee and possibly the commitment fee. The quantitative impact on participating lenders is the incurrence of an annual participation fee to participate in the program. The quantitative impact on the Authority is the staff time incurred in processing applications, issuing MCCs, and reissuing MCCs if requested.

- **Qualitative description of impact:**

The proposed rulemaking will provide clarity about the Authority's processes for its MCC program.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Authority incurs staff time to administer MCC issuances and reissuances.

- **Anticipated effect on State revenues:**

The proposed rulemaking has no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The proposed rulemaking does not impose any additional costs on either participating lenders or eligible borrowers compared to the existing Chapter 10. The cost to participating lenders and the cost to eligible borrowers is proportional to the benefits received from the program.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods that exist for administering the MCC program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any alternative methods because the Authority did not identify a less costly or less intrusive method.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules do not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10

MORTGAGE CREDIT CERTIFICATES

265—10.1(16) General.

10.1(1) *Authorization.* Mortgage credit certificates (MCCs) were authorized by Congress in the 1984 Tax Reform Act as a new concept for providing housing assistance. The Iowa finance authority (authority) may elect to allocate a portion of its mortgage revenue bonding authority for single-family housing toward an MCC program. The program will be made available to home buyers through participating Iowa lenders on a first-come, first-served basis.

10.1(2) *Federal income tax credit.* The MCC operates as a federal income tax credit. The MCC tax credit will reduce the federal income taxes of qualified home buyers purchasing qualified residences, in effect assisting buyers with their house payments.

10.1(3) *Application timing.* A purchaser of a new or existing single-family residence may apply for an MCC through a participating lender at the time of purchasing a home and obtaining financing through the lender. An MCC cannot be issued to a home buyer who is refinancing an existing mortgage or land contract, nor can it be used in conjunction with a mortgage financed through a mortgage subsidy bond. MCCs will be made available to home buyers with generally the same noncredit eligibility requirements as are in effect for the authority's single-family mortgage program.

265—10.2(16) Participating lenders.

10.2(1) Any lending institution as defined in Iowa Code section 16.1 may become a participating lender by entering into an MCC lender participation agreement with the authority. All other participating lenders may take applications for MCCs on loans closed after the effective date of the participation agreement.

10.2(2) The annual participation fee shall be:

a. $0 for a lender currently participating in the authority's first mortgage program.

b. $500 for a lender not participating in the authority's first mortgage program and with one to five branches listed on the authority's website.

c. $1,000 for a lender not participating in the authority's first mortgage program and with six or more branches listed on the authority's website.

265—10.3(16) Eligible borrowers.

10.3(1) To be eligible to receive a mortgage credit certificate, an eligible borrower must, on the date the loan is closed:

a. Be a resident of Iowa.

b. Be a purchaser of a single-family residence who will occupy the single-family residence as a permanent, primary, principal residence located within the state.

c. Have the legal capacity to incur the obligations of the loan.

d. Agree not to rent the single-family residence any time during the term of the loan.

10.3(2) To the extent determined by the authority to ensure its MCCs will be qualified MCCs pursuant to a qualified MCC program, the authority shall require that the eligible borrower meet the requirements of 26 U.S.C. §25 and the rules and regulations promulgated thereunder, as well as the requirements set forth in the MCC program guide. Copies of the program guide are available from the authority.

265—10.4(16) MCC procedures.

10.4(1) Applications for MCCs may be made with any participating lender. The applicant shall provide the lender with all information that is necessary to secure a mortgage loan and an MCC. An applicant must meet the eligibility requirements set out in rule 265—10.3(16).

If the eligibility requirements are met, the participating lenders may nonetheless deny a loan, subject to all reporting and disclosure requirements of applicable state and federal law, for any reason premised on sound lending practices, including underwriting risk evaluation, portfolio diversification, and limitations on restrictions on investments or available funds.

10.4(2) If the loan is approved, the terms of the loan, including interest rate, length of loan, down payment, fees, origination charge and repayment schedule, shall not be greater than those available to similar customers that do not make application for an MCC. However, the lender may collect a one-time MCC commitment fee, which may be paid by the borrower, lender, or any other party. An MCC program application fee must accompany the MCC application and be submitted to the authority by the lender. The amount of the maximum allowable MCC commitment fee shall be $250 and the amount of the MCC program application fee shall be:

a. $0 if the borrower currently uses an authority first mortgage product.

b. $500 if the borrower does not currently use an authority first mortgage product.

10.4(3) No MCC will be issued unless the requirements and procedures set out in the MCC program guide are complied with by all parties to the home sale and financing.

10.4(4) An MCC may be reissued at the sole discretion of the authority if the mortgagor refinances; however, the credit cannot be taken beyond the term of the original mortgage. No MCC shall be reissued unless:

a. The borrower uses or continues to use the residence as its permanent, primary, principal residence; and

b. All other requirements and procedures set out in the authority's MCC reissuance instructions are complied with, which reissuance instructions shall be posted on the authority's website.

265—10.5(16) References. All references to the United States Code in this chapter are to the laws as in effect [effective date of this rulemaking]. All references to the MCC program guide are to the MCC program section within the authority's Procedural Guide (The Single Family Department) dated March 2018. All references to the MCC reissuance instructions are to the Instructions for Requesting Reissuance of Mortgage Credit Certificates dated March 2019.

These rules are intended to implement Iowa Code section 16.5(1)*"e," "i,"* and *"t."*