

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 79, “Disaster Recovery Business Rental Assistance Program,” Iowa Administrative Code.

These rules are intended to assist a business located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s). This financial assistance will offset building rental lease payments for a maximum of six months, not to exceed a total award amount of \$50,000. In-home businesses are not eligible for funds pursuant to this chapter.

The rules describe the purpose of the program, provide program definitions, establish eligibility requirements and the maximum amount of financial assistance available, and provide for program administration.

The IDED Board adopted these rules on March 19, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because Iowa communities are in immediate need of financial assistance directed towards business retention and creation in disaster-damaged buildings.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on March 20, 2009. These rules confer a benefit on the public by distributing funds to Iowa businesses as soon as possible. In addition, the rules are implemented on an emergency basis because communities are in immediate need of financial assistance directed towards business retention and creation in disaster-damaged buildings. These rules are intended to incentivize businesses to remain in or locate in disaster-damaged buildings as soon as possible.

These rules are also published herein under Notice of Intended Action as **ARC 7707B** to allow for public comment.

These rules became effective on March 20, 2009.

These rules are intended to implement Iowa Code section 15.109.

The following amendment is adopted.

Adopt the following new 261—Chapter 79:

CHAPTER 79

DISASTER RECOVERY BUSINESS RENTAL ASSISTANCE PROGRAM

**261—79.1(15) Purpose.** The purpose of the disaster recovery business rental assistance program is to provide financial assistance to a business located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s). Assistance will be in the form of rental assistance to help offset building rental lease payments for a maximum of six months, not to exceed a total award amount of \$50,000. In-home businesses are not eligible for the funds pursuant to this chapter.

**261—79.2(15) Definitions.**

“*Administrative entity*” means a selected city that administers a local disaster recovery program or a council of government as established in Iowa Code section 28H.1.

“*Business*” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietorship, or a nonprofit corporation.

“*Department*” means the Iowa department of economic development established by Iowa Code chapter 15.

“*Disaster-damaged space*” means a business rental space that was physically damaged by the 2008 natural disaster(s). This definition includes upper stories of a building that was physically damaged in the basement or ground floor, or both, as well as a building constructed at the same site to replace a building that was destroyed due to damage resulting from the 2008 natural disaster(s). In-home businesses are not eligible for funds pursuant to this chapter.

“*Physically damaged*” for the purpose of this program means physical damage caused by flooding, including overland flow, or physical damage caused by tornado. Damage caused by sanitary or storm sewer backup is not included unless the department determines that such damage was a direct result of the 2008 natural disaster(s).

**261—79.3(15) Eligible business; application review.**

**79.3(1)** An eligible business is a business that:

- a. Is located in or planning to locate in a business rental space that was physically damaged by the 2008 natural disaster(s); and
- b. Has entered into or intends to enter into a minimum one-year, market-rate lease.

**79.3(2)** Applications received from businesses located in or planning to locate in a building in which the only damage incurred was a result of sanitary or storm sewer backup are subject to review by the department to determine eligibility. Factors used by the department to determine eligibility include, but are not limited to, review of insurance claims filed, damage to critical infrastructure and review of prior sanitary or storm sewer backup.

**79.3(3)** Applications received from businesses located in or planning to locate in a building that is zoned residential are subject to review by the department to determine eligibility. Factors used by the department to determine eligibility include, but are not limited to, review of the rental lease agreement, business plan and community comprehensive plan.

**261—79.4(15) Eligible program activities; maximum amount of assistance.**

**79.4(1)** An eligible business may apply for rental assistance to help offset building rental lease payments for a maximum of six months.

**79.4(2)** The maximum amount of program funds available for rental assistance per business is the equivalent of six months’ rent up to a maximum of \$50,000.

**261—79.5(15) Distribution of funds to administrative entities.**

**79.5(1)** *Types of financial assistance available.* An administrative entity shall provide financial assistance to an eligible business in compliance with the terms and conditions described in this rule. An administrative entity may award funds in the form of a forgivable loan to a business that has entered into a minimum one-year, market-rate lease agreement. A forgivable loan is a loan that will be forgiven if the business remains open for the duration of the six-month period for which rental assistance is awarded.

**79.5(2)** *Allocation of funds by an administrative entity.* Applications will be processed by an administrative entity. Funds will be distributed upon request to the department from an administrative entity. The department will process requests for funds as received from an administrative entity no more frequently than once per week per administrative entity.

**79.5(3)** *Program termination.* Funds for this program shall be available through April 30, 2010.

**261—79.6(15) Program administration; reporting requirements.** Each local administrative entity shall enter into a contract with an eligible business to provide assistance. The contract shall include terms and conditions that meet the requirements of these rules as well as provisions to require repayment if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting the contract requirements. Each local administrative entity shall collect data and submit reports to the department about the program in the form and content required by law.

These rules are intended to implement Iowa Code section 15.109.

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