

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our file # 615.

Permanent Rule_____

Temporary Rule X

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 7/8 DUE DATE 7/15

Resubmitted and Received 7/17 - 7/27

a. Returned to Agency w/o Filing w/Secretary of State 7/15
b. Approved 7/17 Date Sent Back to Agency_____

- -

1. Rules as Adopted_____

2. Rules as Proposed_____

3. Certificate of Board's
   Authorizing Resolution, where applicable_____

4. Order for Hearing_____

5. Notice of Hearing_____
   Sufficiency_____

6. Secretary of State's List_____(one copy only)

7. Certificate of Acquisition of
   Secretary of State's List_____

8. Secretary of State's Certification of Delivery
   of Secretary of State's List to Agency_____

9. Affidavit of Mailing_____
   At least 30 days prior to hearing_____

10. Publication in State Register_____
    At least 30 days prior to hearing_____

11. Statement of Need and Evidence_____

12. Hearing Examiner's Report_____

13. Agency's Findings of Fact_____

14. Certificate of Board's Resolution
    Adopting Rules, where applicable_____

15. Order Adopting_____

16. Report of Chief Hearing Examiner_____

17. Order Approving Incorporation by Reference,
    where applicable_____

18. Certificate of Compliance with Rulemaking Procedures_____

19. Copy of Notice of Intent to Solicit Outside Opinion,
    where applicable_____

20. Petition by Public, where applicable_____

OUR FILE NO. 615

ATTORNEY GENERAL

JAMES J. SOLEM
Executive Director
Minnesota Housing Finance Agency

July 15, 1980

Attn: JIM DINERSTEIN

H. THEODORE GRINDAL
Special Assistant
Attorney General

297-3471

In the Matter of the Temporary Rules Governing the Energy Efficient Housing Demonstration Program

The rules in the above-referenced matter have not been approved by this office and are being returned to you for the following reasons:

1. In 12 MCAR § 3.139 A. states "A loan may be made to a builder upon a determination that such loan is necessary in order to permit the construction of a model home. . .," This language appears to grant the agency the authority to grant a loan or not grant a loan after a determination has been made that such a loan is necessary in order to permit construction. Such unlimited discretion is improper. It would seem appropriate to replace the "may" with a "shall" in this instance.

2. The section 12 MCAR § 3.138 is missing from the temporary rule listed. It would be preferable to have the three sections to be numbered in sequence. Therefore, 12 MCAR § 3.139 should be numbered 12 MCAR § 3.138.

3. In 12 MCAR § 3.136, in the second line it should read, "To qualify for an Energy," instead of "a Energy."

On July 15, 1980, I discussed this rule on the telephone with Special Assistant Attorney General Jim Dinerstein. He had already prepared a contingency plan for a difficulty with the "may" and "shall" question. He agreed to resubmit the rules with a copy of a resolution from the Commission authorizing the Executive Director to alter the "may's" and "shall's" as necessary. Also, he will send us three copies of the amended rule.

If you have any further questions in regard to this memorandum, please feel free to contact me.

HTG:mb

cc: Susan Robertson
Duane Harves

SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JAMES J. SOLEM
Executive Director
Minnesota Housing Finance Agency

DATE: July 18, 1980

Attn: JIM DINERSTEIN

FROM : H. THEODORE GRINDAL
Special Assistant
Attorney General

PHONE: 296-3471

SUBJECT: In the Matter of the Temporary Rules Governing the Energy Efficient Housing Demonstration Program

The above-captioned temporary rules have been approved by this office.

While the statute does not require it, this office recommends that an Order of Adoption and a copy of the Rules as Adopted be filed with the Secretary of State. It is the department's responsibility to comply with the Notice provisions of Minn. Stat. § 15.0412, subd. 5.

If you have any questions, do not hesitate to contact me.

HTG/bw
Encl.

MINNESOTA HOUSING FINANCE AGENCY
333 Sibley Street
St. Paul, Minnesota 55101

RESOLUTION NO. MHFA 80- 35

RESOLUTION ADOPTING TEMPORARY RULES
GOVERNING THE ENERGY EFFICIENT HOUSING DEMONSTRATION PROGRAM

WHEREAS, on May 26, 1980 proposed temporary rules for the Energy Efficient Housing Demonstration Program were published for comment in the State Register in Volume 4, No. 47, page 1847 (4 SR 1847); and

WHEREAS, more than 20 days have elapsed from said publication date; and

WHEREAS, no comments were received within the 20 day comment period; and

WHEREAS, it is necessary to adopt the temporary rules to implement the Energy Efficient Housing Demonstration Program for the financing of residential housing;

THEREFORE, BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the temporary rules governing the Energy Efficient Housing Demonstration Program be and they hereby are adopted as temporary rules pursuant to Minn Stat. §15.0412, Subd. 5, and Laws 1980 Chapter 593, Section 4, and that James J. Solem, the Executive Director of the Minnesota Housing Finance Agency be and he hereby is authorized and directed to perform all acts required for the promulgation of said temporary rules, including without limitation submission of said rules to the Attorney General of the State of Minnesota.

Adopted this 26th day of June, 1980

Chairman

Secretary

MINNESOTA HOUSING FINANCE AGENCY

Adopted Temporary Rules Governing the Energy Efficient Housing Demonstration Program

Chapter Eleven A: Energy Efficient Housing Demonstration Program

12 MCAR § 3.136 Definition. For the purpose of Energy Efficient Housing Demonstration Program Loans, "Persons and Families of Low and Moderate income" means those persons and families whose Adjusted Income does not exceed $22,500 in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and $20,000 for the remainder of the state.

12 MCAR § 3.137 Eligible recipients of Energy Efficient Housing Demonstration Program Loans. To qualify for an Energy Efficient Housing Demonstration Program loan, a recipient must satisfy the requirements of 12 MCAR § 3.036 for a Limited-Unit Development Mortgage Loan. No recipient shall have held any ownership interest (either under fee title or by contract for deed) in any residential dwelling within two years prior to the date of the application for the Energy Efficient Housing Demonstration Program loan.

12 MCAR § 3.138 Construction loans. The Agency may make loans for the construction of homes to be purchased by recipients of an Energy Efficient Housing Demonstration Program loan subject to the following terms:

A. A loan shall be made to a builder upon a determination that such loan is necessary in order to permit the construction of a model home by a builder participating in the program.

B. The construction loan borrower need not be a person or family of low or moderate income.

C. The construction loan borrower shall agree to abide by the requirements of this chapter relating to the construction, specifications, sale, and mortgage of the home to be constructed with such loan.

D. The Agency may withhold such part of the construction loan as is necessary to assure completion of the home.

APPROVED AS TO FORM AND LEGALITY

July 14, 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY [signature]

SPECIAL ASSISTANT ATTORNEY GENERAL

PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency

Proposed Temporary Rule Governing the Energy Efficient Housing Demonstration Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rule for the purpose of implementing the provisions of Chapter Eleven A: 12 MCAR §§ 3.136 to 3.139, Energy Efficient Housing Demonstration Program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Al Hans, Director of Finance, Minnesota Housing Finance Agency, Suite 200 Nalpak Building, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rule.

May 12, 1980

Temporary Rules as Proposed

Chapter Eleven A: Energy Efficient Housing Demonstration Program

12 MCAR § 3.136 Definition. For the purpose of Energy Efficient Housing Demonstration Program Loans, "Persons and Families of Low and Moderate income" means those persons and families whose Adjusted Income does not exceed $22,500 in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and $20,000 for the remainder of the state.

12 MCAR § 3.137 Eligible recipients of Energy Efficient Housing Demonstration Program Loans. To qualify for a Energy Efficient Housing Demonstration Program loan, a recipient must satisfy the requirements of 12 MCAR § 3.036 for a Limited-Unit Development Mortgage Loan. No recipient shall have held any ownership interest (either under fee title or by contract for deed) in any residential dwelling within two years prior to the date of the application for the Energy Efficient Housing Demonstration Program loan.

Public Hearings on Agency Rules May 28-June 5, 1980

Date	Agency and Rule Matter	Time & Place
June 5	Livestock Sanitary Board Control of Pseudorabies Hearing Examiner: Richard Luis	9:30 a.m., Room D, Veterans Service Bldg., 20 W. 12th Street, St. Paul, MN
June 5	MN State Retirement System Deferred Compensation Plan Hearing Examiner: George Beck	9:00 a.m., Room 300, Hearing Examiners Office, 1745 University Ave., St. Paul, MN 55104

12 MCAR § 3.139 Construction loans. The agency may make loans for the construction of homes to be purchased by recipients of an Energy Efficient Housing Demonstration Program loan subject to the following terms:

A. A loan may be made to a builder upon a determination that such loan is necessary in order to permit the construction of a model home by a builder participating in the program.

B. The construction loan borrower need not be a person or family of low or moderate income.

C. The construction loan borrower shall agree to abide by the requirements of this chapter relating to the construction, specifications, sale, and mortgage of the home to be constructed with such loan.

D. The agency may withhold such part of the construction loan as is necessary to assure completion of the home.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."



minnesota housing finance agency

July 3, 1980

The Honorable Warren Spannaus
Attorney General of Minnesota
Room 102 - Capitol Building
Aurora Avenue
St. Paul, Minnesota 55155

Subject: Temporary Rules Governing the Energy Efficient Housing Demonstration Program

Dear Mr. Spannaus:

Enclosed please find for your review pursuant to Minnesota Statutes Section 15.0412, Subdivision 5 the following items regarding the Energy Efficient Housing Demonstration Program:

1. The proposed temporary rule as published in the State Register.

2. The temporary rule as adopted by the Agency.

The rules as adopted are identical to the rules as published in the State Register. No comments were received by the Agency in response to the publication in the State Register.

The temporary rules have been adopted pursuant to authority provided in Laws 1980 Chapter 593, Section 4. The Agency did not seek outside opinion in the preparation of these rules.

Thank you for your assistance in this matter.

Very truly yours,

James J. Solem
Executive Director

JJS/kjj

Encs.

RECEIVED
JUL 8 - 1980
ATTORNEY GENERAL
132 STATE CAPITOL
ST. PAUL, MINN. 55155

333 sibley - suite 200 - saint paul, minnesota 55101 - (612) 296-7608

AN EQUAL OPPORTUNITY EMPLOYER