

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

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SF-00006 01

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : JAMES E. DINERSTEIN
Special Assistant
Attorney General

DATE: 12/10/80

FROM : H. THEODORE GRINDAL HTG
Special Assistant
Attorney General

PHONE: 297-3471

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

HTG/bw
Encl.
cc: Duane Harves
Susan Robertson

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA HOUSING FINANCE AGENCY RELATING TO THE INCOME LIMITS FOR THE HOME IMPROVEMENT LOAN PROGRAM.	Resolution No. MHFA 80-71 RESOLUTION ADOPTING REPORT OF HEARING EXAMINER AND RULES

WHEREAS, pursuant to Board Resolution No. MHFA 80-34 of June 26, 1980, the Executive Director was authorized to call a public hearing on the above-entitled proposed rules which were presented to the Board on that date; and

WHEREAS, the above-entitled matter having come on for hearing before Richard C. Luis, Hearing Examiner of the State of Minnesota on September 4, 1980, at 9:15 a.m. at Conference Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota after proper notice required by Minn. Stat. §15.0412 was served upon all persons, associates, and other interested groups registered with the Secretary of State for that purpose, and after notice of the Agency's intention to hold the hearing was mailed to persons registered with the Agency for the purpose of receiving such notices in accordance with Laws 1980, Chapter 615, Section 6; and

WHEREAS, on September 30, 1980, after consideration of the proposed rules, and the evidence presented in writing and at the public hearing, the Hearing Examiner issued a report approving the rules as proposed by the Agency at the hearing with a minor language revision; and

WHEREAS, after consideration of the Hearing Examiner's report, the Agency has proposed the language revision in the attached Exhibit A in order to respond to the suggestions in the report of the Hearing Examiner:

NOW THEREFORE, having afforded interested persons an opportunity to present written and oral data, statements, and arguments, having considered all of the testimony and evidence contained in the records, files, and proceedings herein, and applicable statutory standards and criteria, and having confirmed the need for the above-captioned rules.

IT IS HEREBY RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

1. that the findings of fact, conclusions, and recommendations of the Hearing Examiner dated September 30, 1980 be and hereby are adopted; and

2. that the rules attached hereto as Exhibit B are incorporated herein by the reference as if fully set forth herein be and hereby are adopted; and

3. that the Executive Director of the Minnesota Housing Finance Agency, be and hereby is authorized and directed to present these rules as adopted to the Chief Hearing Examiner and to the Attorney General for review and approval pursuant to Minn. Stat. §15.0412; to arrange at the appropriate time

for the publication of these rules in the State Register; and to perform all other acts necessary in connection with the promulgation of said rules.

Adopted by the Minnesota Housing Finance Agency this 23rd day of October, 1980

By: _____
Chairman

By: _____
Secretary

EXHIBIT A

IN THE MATTER OF THE PROPOSED ADOPTION OF
RULES OF THE MINNESOTA HOUSING FINANCE AGENCY
RELATING TO THE INCOME LIMITS FOR THE HOME
IMPROVEMENT LOAN PROGRAM.

12 MCAR § 3.022 O. "Persons and Families of Low and Moderate Income" means:

4. with respect to Home Improvement Loans pursuant to Chapter Six of these Rules, those persons and families whose Adjusted Income does not exceed $18,000 or such lower amount as the Agency may establish to assure that the interest on obligations of the Agency will be exempt from federal income taxation.

Minnesota Housing Finance Agency

Adopted Rules Covering the Home Improvement Loan Program

12 MCAR § 3.002 O. "Persons and Families of Low and Moderate Income" means:

4. with respect to Home Improvement Loans pursuant to Chapter Six of these Rules, those persons and families whose Adjusted Income does not exceed $18,000 or such lower amount as the Agency may establish to assure that the interest on obligations of the Agency will be exempt from federal income taxation.

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE STATE HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Richard C. Luis, Hearing Examiner assigned by the Chief Hearing Examiner, at 9:15 a.m. on Thursday, September 4, 1980, in Conference Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota.

This Report is part of a rule-making process pursuant to Minn. Stat. Chapter 15 to determine whether an amendment to 12 MCAR § 3.002 0.4. (Persons and Families of Low and Moderate Income) should be adopted.

James E. Dinerstein, Special Assistant Attorney General, appeared on behalf of the Housing Finance Agency (hereinafter "Agency"). The Agency's panel consisted of Riva Lee, Director of Research and Information, Mary Tingerthal, Manager of Home Improvement Programs, and Monte Aaker, Research Coordinator for the Agency.

Eight persons attended the hearing, one person signed the hearing register, and one person spoke at the hearing as a representative of the general public. The contributor of public testimony was Phil Handy, Deputy Director for Housing Resources, Minneapolis Housing and Redevelopment Authority. Written commentary on the income limits for the Home Improvement Loan Program was received before the hearing from St. Paul home owner Kathleen Hale, and the Agency panel was given the opportunity to address her comments during the course of the hearing.

At the hearing, subsequent to publication of the proposed amendment in the State Register, the Agency filed an additional proposed amendment. This amendment proposed additional language for the rule and did not involve a deletion from or substitution for the proposed amendment as published. The record closed on September 11, 1980. One public comment, received at the Office of Administrative Hearings on September 22, 1980, was forwarded to the Agency along with the original record in this matter. That comment should be considered as a comment upon the Hearing Examiner's Report.

Pursuant to Minn. Stat. § 15.0412, subds. 4d and 4e (Minn. Laws 1980, Ch. 615, §§ 6 and 7), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Agency shall, if it proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Agency makes changes in the rule other than those recommended herein, it shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to adopting it and submitting it to the Attorney General for review.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On July 17, 1980, the Agency filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rule amendments.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On July 29, 1980, the Agency mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice. The Agency also mailed a Notice of Hearing to one person who had registered with the Agency for the purpose of receiving such notice.

3. On August 4, 1980, a Notice of Hearing and a copy of the proposed amendments were published at 5 State Register 159.

4. On August 7, 1980, the Agency filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Statement of Need and Reasonableness.
(f) The names of Agency personnel who would represent the Agency at the hearing.

5. On September 4, 1980, the Agency filed the following documents:

(a) The Agency resolution authorizing its Executive Director to order the hearing.
(b) An additional amendment proposed by the Agency but not published in the State Register.
(c) A letter received commenting on income limits for the Home Improvement Loan Program.

Item (a) must be filed at least 25 days prior to the date and time of the hearing under 9 MCAR § 2.105. This item was filed late and did not enter the record of the proceedings until the date of the hearing. The purpose of the "25-day" rule is to assure that all parties with a potential interest in the rule-making proceeding in question have received proper notice of the Agency's intent. Other documents, timely filed, such as the Notice of Hearing and the Statement of Need and Reasonableness, put the public on substantial notice of the proposals involved in this proceeding. In addition, the proposed amendment was attached to all Notices of Hearing mailed. The record is clear that all publication and mailing were performed in accordance with the 30-day notice requirement of Minn. Stat. § 15.0412, subd. 4. The Hearing Examiner would recommend non-adoption of the proposed amendments if he thought that the notice to the public was so deficient as to be prejudicial to parties having a potential interest in the amendments, but no evidence of such deficiency exists. No one inquired with the Hearing Examiner desiring to inspect the preliminary filings, and no complaint has been made about lack of notice. The Minnesota Supreme Court recently commented:

> "We note at the outset that the law does not mandate in all cases strict and literal compliance with all procedural requirements. Technical defects in compliance which do not reflect bad

faith, undermine the purpose of the procedures, or prejudice the rights of those intended to be protected by the procedures will not suffice to overturn governmental action. . . ." City of Minneapolis v. Wurtele, 291 N.W.2d 386, 391 (Minn. 1980).

The failure of the Agency to comply with the letter of 9 MCAR § 2.105 in this instance does not reflect bad faith, does not undermine the purpose of the rule-making process, and did not prejudice the rights of those intended to be protected in the course of this proceeding. The Hearing Examiner finds that said failure is thus insufficient, standing alone, to make this rule-making proceeding defective.

6. The above-discussed documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the close of the record.

7. The record remained open through September 11, 1980, for the receipt of comments and statements. The only documents filed of record since the hearing were filed by the Agency and contained a portion of the Federal "Ullman" bill requested by the Hearing Examiner and the list of names of additional persons who registered with the Agency for the purpose of receiving the Notice of Hearing.

8. The Agency cites Minn. Stat. §§ 462A.03, subd. 10, and 462A.06, subds. 4 and 11 (1978) as the statutory authority for adoption of the proposed rule amendment. Section 462A.03, subd. 10, provides as follows:

> "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination, the Agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligiblity of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligiblity of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases, income limits for the purpose of defining low or moderate income persons shall be established by the agency in its rules.

Subdivision 4 of section 462A.06 reads as follows:

> It [the Agency] may make, and from time to time, amend and repeal rules and regulations not consistent with the provisions of sections 462A.01 to 462A.24.

Section 462A.06, subd. 11, reads as follows:

> It [the Agency] may make and publish rules and regulations respecting its mortgage lending, construction lending, rehabilitation lending, grants, and temporary lending, and any such other rules and regulations as are necessary to effectuate its corporate purpose.

9. Pursuant to the above-mentioned statutory provisions, the Agency is required to consider four criteria in setting income limits for the purpose of determining persons and families of low and moderate income. The Agency has adopted comprehensive rules that regulate and govern the administration of

housing loans and grants. In 1975, the Agency set the adjusted income limits for the Home Improvement Loan Program at $16,000. While the rules were modified in 1977, the adjusted income limits have remained at $16,000 for home improvement loans.

10. The proposed rule amendment increases the adjusted income limits for the Agency's Home Improvement Loan Program from $16,000 to $18,000. The proposed change reflects the reduced purchasing power of today's dollar. The Agency's Statement of Need and Reasonableness and hearing presentation adequately demonstrate the need for and reasonableness of the proposed amendment by an affirmative presentation of facts. The Agency's Statement of Need and Reasonableness is hereby incorporated by reference herein.

11. Subsequent to the original publication of the proposed amendment in the State Register, the Agency proposed an additional amendment. The Agency presented this change at the hearing. The additional amendment is contained in paragraph 4 of 12 MCAR § 3.002 O. The proposal is to add the language "or such lower amount as shall be required to assure that the interest on obligations of the Agency will be exempt from federal income taxation." after the figure $18,000. The Home Improvement Loan Program is financed by tax-exempt bonds and appropriations from the Minnesota Legislature. The additional language would enable the Agency to assure a sufficient flow of funds from tax-exempt bonds in accordance with proposed federal legislation (the "Ullman" Bill) that limits the use of tax-exempt bonds for home improvement loan purposes. Agency personnel noted at the hearing that the likelihood that the $18,000 limit would be too high under the pending legislation is extremely remote. The Hearing Examiner finds that the proposed additional language will give the Agency flexibility in setting income level determinations and is necessary and reasonable. The amendment proposed at the hearing does not involve an increase in the adjusted income limits for home improvement loans over the published $18,000. Since its purpose is to allow the Agency to adjust the income limit below $18,000 in the unlikely event that the federal tax exemption would be lost if $18,000 is too high under pending federal legislation, the Hearing Examiner finds that the additional language proposed for 12 MCAR § 3.002 O.4. does not constitute a substantial change in the meaning and intent of the rule as published.

12. In order to avoid any possible interpretation to the effect that 12 MCAR § 3.002 O.4. improperly delegates the Agency's authority to another body (Congress), the Hearing Examiner suggests that the phrase "as the Agency may establish" be substituted for the phrase "as shall be required" upon final adoption. The Hearing Examiner finds that adoption of the amendment as suggested is needed and reasonable, and further finds that adoption of the amendment as suggested would not constitute a substantial change in the meaning and intent of the amendment as published or as proposed by the Agency at the hearing.

CONCLUSIONS

1. That due, timely and legally adequate notice of the hearing in this matter was properly served and published by the Agency.

2. That the Agency has met the procedural requirements of Minn. Laws 1980, ch. 615, § 6, subds. 4-4f (to be codified as Minn. Stat. § 15.0412, subds.

4-4-f) and all other procedural requirements of law or rule; the procedural irregularity noted at Finding 5 is technical in nature and no corrective action is needed in the absence of any evidence of prejudice to interested parties.

3. That the Agency has demonstrated its statutory authority to adopt the proposed rule amendments within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4c (to be codified as Minn. Stat. § 15.0412, subd. 4c), Minn. Stat. § 15.0412, subd. 1 (1978), and all other substantive requirements of law.

4. That the Agency has demonstrated the need for and reasonableness of the proposed rule amendments by an affirmative presentation of facts in the record within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4c (to be codified as Minn. Stat. § 15.0412, subd. 4c).

5. That the additions to the proposed rule amendments which were proposed after publication of the rules in the State Register are not substantially different from the rules as published in the State Register within the meaning of Minn. Laws 1980, Ch. 615, § 6, subd. 4d (to be codified as Minn. Stat. § 15.0412, subd. 4d).

6. That any Findings which might properly be termed Conclusions, and any Conclusions which might properly be termed Findings are hereby adopted as such.

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the proposed rule amendments be adopted consistent with the Findings and Conclusions made above.

Dated this 30th day of September, 1980.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

APPROVED AS TO FORM AND LEGALITY

Dec 8 19 80

WARREN SPANNAUS, ATTORNEY GENERAL

BY H Theodore Rindal

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC - 8 1980
Joan Anderson Growe
Secretary of State
2:06 PM

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY

ORDER FOR HEARING

IN THE MATTER OF: The Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Capitol Square Building, Conference Room A, 550 Cedar Street, St. Paul, Minnesota on Thursday, September 4, 1980, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons who have registered with the Agency for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY



Executive Director

Date: July 30, 1980

STATE OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I. Special Assistant Attorney General James E. Dinerstein, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Special Assitant Attorney General

Dated: October 31, 1980

minnesota housing finance agency

October 31, 1980

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

RE: In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency relating to the Income Limits for the Home Improvement Loan Program.

Dear Mr. Spannaus:

Enclosed please find for your review pursuant to Minnesota Statutes Section 15.0412, Subdivision 4, the proposed rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to Atty. Gen. 302:

Rules as Adopted.

Rules as Proposed.

Order of Hearing.

Notice of Hearing.

Secretary of State's List.

Affidavit of Receipt of Secretary of State's List. — not submitted and not in record as submitted.

Affidavit of Mailing.

Chief Hearing Examiner's Report. not submitted

Statement of Need and Reasonableness.

Order Adopting Rules and Findings of Fact.

Statement of compliance with Manual of Rulemaking Procedure.

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

AN EQUAL OPPORTUNITY EMPLOYER

The record of the Rules Hearing as kept by the Hearing Examiner.

Sincerely,

James J. Solem
Executive Director

JJS/jag

Encl.

RECEIVED
NOV 19 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Our File #656

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 11/19 DUE DATE 12/9

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved _____ Date Sent Back to Agency _____

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1. Rules as Adopted ✓ ok. except labelled "Proposed"
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓ 9.4.80
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List not submitted.
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 ✓ 7.29.80
10. Publication in State Register not submitted but see HE 3.
    At least 30 days prior to hearing ✓ 8.4.80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓ incorporated into #15 - "Resolution Adopting"
14. Certificate of Board's Resolution Adopting Rules, where applicable ✓ combined with #14
15. Order Adopting ✓ labelled "Resolution Adopting"
16. Report of Chief Hearing Examiner N/A
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N/A
20. Petition by Public, where applicable N/A

CERTIFICATE OF BOARD'S
AUTHORIZING RESOLUTION

I, Arthur Sidner, do hereby certify that I am Vice Chairman of the Minnesota Housing Finance Agency, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Housing Finance Agency Board duly and properly called and held on the 26th day of June, 1980; that a quorum was present at said meeting; that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGFNCY:

That James J. Solem, the Executive Director of the Minnesota Housing Finance Agency, be and he hereby is authorized and directed (1) to call a hearing for the purpose of promulgating rules of the Minnesota Housing Finance Agency, relating to Income Limits for the Home Improvement Loan Program; (2) to arrange for a hearing examiner to act as presiding officer at said hearing; and (3) to perform all other acts incidental to such hearing including without limitation signing an Order of Hearing and Notice of Hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 26th day of June, 1980.

Arthur E. Sidner
Vice Chairman

James C. Price
Attest by one other member

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program

NOTICE OF HEARING

NOTICE is hereby given that a public hearing will be held in the above entitled matter in the Capitol Square Building, Conference Room A, 550 Cedar Street, St. Paul, Minnesota, 55101, on Thursday, September 4, 1980, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate.

All representatives of associations or other interested groups and all interested or affected persons will have an opportunity to be heard concerning the adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted by mail without personally appearing at the hearing to Richard Luis, Hearing Examiner, at Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, telephone (612) 296-8114. For those wishing to submit written statements or exhibits, it is suggested to save time and avoid duplication, that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered into and become a part of the record. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 - 15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions about procedure may be directed to the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all of the evidence and argument which is anticipated to be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

After the public hearing, written material may be submitted to the Hearing Examiner and recorded in the hearing record for five working days, or the comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Hearing Examiner at the hearing.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the Agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Agency. If you desire to be so

notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the hearing examiner's report) or to the Agency (in the case of the Agency's submission or resubmission to the Attorney General).

The Agency proposes to adopt rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program. NOTICE: The proposed rules are subject to change as a result of the rule hearing process. The Agency, therefore, strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to the Executive Director, Minnesota Housing Finance Agency, 333 Sibley Street, St. Paul, Minnesota, 55101. Additional copies will be available at the door on the date of the hearing.

The Agency's statutory authority to promulgate the proposed rules is contained in Minnesota Stat. §§ 462A.03, Subdivision 10, and 462A.06, Subdivisions 4 and 11 (1978).

Under Minnesota Statutes (1979 Supplement), § 10A.01, Subdivision 11 a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute:

"Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communciating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over $250, excluding his own travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Questions regarding only lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-5615.

MINNESOTA HOUSING FINANCE AGENCY

Date 7-21-80, 1980

JAMES J. SOLEM, Executive Director

Minnesota Housing Finance Agency

Proposed Rules Covering Income Limits for the Home Improvement Loan Program

12 MCAR § 3.002 0. "Persons and Families of Low and Moderate Income" means:

4. with respect to Home Improvement Loans pursuant to Chapter Six of these Rules, those persons and families whose Adjusted Income does not exceed ~~$16,000~~ $18,000.

AG. copy.
- "Adopted Rule"

Minnesota Housing Finance Agency

Proposed Rules Covering the Home Improvement Loan Program.

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HE 12

Minnesota Housing Finance Agency

Proposed Rules Covering the Home Improvement Loan Program.

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MHFA Exhibit No. 4
File No.
Date 9/4/80

STATE OF MINNESOTA
COUNTY OF RAMSEY

AFFIDAVIT
OF MAILING

In the matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program.

Mike Kuschke, being first duly sworn, deposes and says:

That on the 29th day of July, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons who have registered with the Agency pursuant to Laws 1980, Chapter 615 Section 6.

Mike Kuschke

Subscribed and sworn to before me this 29th day of July, 1980.

Kathleen J. Johnson

KATHLEEN J. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Dec. 9, 1980

MHFA Exhibit No. 3
File No.
Date 9/4/80

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of the Minnesota Housing Finance Agency Relating to the Income Limits for the Home Improvement Loan Program.

I hereby certify that the attached 345 labels 2 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:00 o'clock A .M., this 23rd day of July, 1980, have requested pursuant to M.S. 1976, 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Joan Anderson Growe

By Diane Rutt

The following Names on the General Mailing List can be sent through Interoffice Mail

Dawson, Jean Mn. Gov't Rep. Room B12 Capitol Bldg., St. Paul, Mn. 55155

Heckt, Paul 720 American Center Bldg., St. Paul, Mn. 55101

Hiniker, James Commissioner of Admin. 200 Admin Bldg., St. Paul, Mn.

Leg.Ref.Lib Z. Dewitt, Room 111 State Capitol, St. Paul, Mn.

Met. Waste Control Comm. 350 Metro Sq. Bldg., St. Paul, Mn.

Minn. Pollution Control , Water Quality, 1935 W. Co. Rd. B2, Roseville, Mn.

Minn. Pollution Control Agency, 1935 W. Co. Rd. B2, Roseville, Mn.

Minnesota Water Resources Bd., Rm. 206 555 Wabasha St., St. Paul, Mn.

Minn. State Council for the Handicapped, Metro Sqr. Bldg. 7th & Robert, St. Pa

Office of the Governor, 130 State Capitol, St. Paul, Mn.

Peterson, H. Commissioner of Labor & Industry, 444 Lafayette Rd., St. Paul

Schultz, Linda, Room 328 Capitol Bldg., St. Paul, Mn.

Whitlock, Marshal LCRAR, Rm 44 St. Off. Bldg., St. Paul, Mn.

PLEASE ADD TO THE GENERAL MAILING LIST

Chen, Phillip 2300 1st National Bank Bldg., Minneapolis, MN 55402

Farmer, John T. MN Mfg. Houseing Assoc. 222 E. Little Canada Rd. Suite 222
Little Canada 55117

Minnesota Petroleum 300 Northern Federal Bldg., St. Paul, MN 55102

Maul, Warren E. Box 15045 615 So. 7th St., Mpls 55415

Spencer, Bonnie Director State Regulatory Div. Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201 Falls Church, VA 22

MINNESOTA HOUSING FINANCE

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Heckt, Paul 720 American Center Bldg., St. Paul, Mn. 55101

Hiniker, James Commissioner of Admin. 200 Admin Bldg., St. Paul, Mn.

Leg.Ref.Lib Z. Dewitt, Room 111 State Capitol, St. Paul, Mn.

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Minn. Pollution Control Agency, 1935 W. Co. Rd. B2, Roseville, Mn.

Minnesota Water Resources Bd., Rm. 206 555 Wabasha St., St. Paul, Mn.

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Office of the Governor, 130 State Capitol, St. Paul, Mn.

Peterson, H. Commissioner of Labor & Industry, 444 Lafayette Rd., St. Paul

Schultz, Linda, Room 328 Capitol Bldg., St. Paul, Mn.

Whitlock, Marshal LCRAR, Rm 44 St. Off. Bldg., St. Paul, Mn.

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ASSOCIATED GEN CONTR.OF MN.
111 E. KELLOGG BLVD.
ST. PAUL, MN
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55116

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BELLE PLAINE MN
56011

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CITY OF APPLE VALLEY
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APPLE VALLEY MN

BROOKLYN PARK MN
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CITY OF CHANHASSEN
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CITY OF DETROIT LAKES
106 E HOLMES ST
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CITY OF E GRAND FORKS
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E GRAND FORKS MN
46721

CITY OF HASTINGS
100 SIBLEY ST
HASTINGS MN
55033

CITY OF MAPLE GROVE
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MAPLE GROVE MN

CITY OF MORRIS
CITY HALL
MORRIS MN
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CITY OF ROCHESTER
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55901

CITY OF ST LOUIS PARK
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ST LOUIS PARK MN
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CITY OF WAYZATA
600 RICE STREET
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COHEN LAWRENCE
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MPLS MN
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CHASKA MN
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CITY HALL
DULUTH MN
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EDEN PRAIRIE MN
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CITY OF MAPLEWOOD
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ST PAUL MN
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CITY OF ST PAUL
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CITY OF WHITE BEAR LAKE
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WHITE BEAR LK MN
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CONCORDIA COLLEGE
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MOORHEAD MN
56560

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7516 80TH ST SO
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CITY OF EAGAN
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4801 W 50TH ST
EDINA MN
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10 E 1ST
JORDAN MN
55352

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3801 66TH AVE NO
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NEW HOPE MN
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2701 NO LEXINGTON AVE
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ST PAUL MN
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CITY OF CRYSTAL
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MPLS. MN
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350 METRO SQ BLG
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55101

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300 METRO SQUARE
ST PAUL MN
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ST MARYS HOSP
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MPLS MN
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555 WABASHA RM 209
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MINN CHAP ASSOC BLDRS-CONTRS
7204 W 27TH ST
MPLS MN
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MINN DACA GRIGGS MIDWAY B
RM SO 280 1821 UNIV AVE
ST PAUL MN
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2333 UNIV AVE SE
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MINN LP GAS ASSN
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MPLS MN
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MINN RURAL ELECTRIC ASSN
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MINN. SERV. STA. ASSN.
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MINN-WISC BOUNDARY AREA COMM
600 2ND ST
HUDSON WI
54016

MINNESOTA AFL-CIO
175 AURORA AVE
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MN.BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN ST COUNCIL FOR HANDICAPP
METRO SQ 7TH & ROBERT
ST PAUL MN
55101

MN ST PHARMACEUTICAL ASSN
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ST PAUL MN
55114

MOSTCA
PO BOX J
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56573

MOTOR VEHICLE MFRS ASSN
411 MAIN ST (215)
ST PAUL MN
55102

MPLS TRIBUNE CITY DESK
425 PORTLAND AVE
MPLS MN
55415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NELSON HOWARD I

LINDSROM MN
55045

NURSING HOME ADMRS BD EXAMRS
RM 340 717 DELAWARE SE
MPLS MN
55414

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

NW REG. DEV. COMM
425 WOODLAND AVE
CROOKSTON MN
56716

NYGREN GAIL
317 CLIFTON AVE #9
MPLS MN
55403

ST PAUL MN
55101

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN.TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MIXA FRANK LK MNTKA CONS DIS
402 E LAKE ST
WAYZATA MN
55391

MN REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MPIRG
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NEMDA
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NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

MPLS MN
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MINN STATE MEDICAL ASSOC
STE 900 AM NATL BK BLDG
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MINN WATER RESOURCES BD
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ST PAUL MN
55102

MN AUTOMOBILE DEALERS ASS
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ST PAUL MN
55103

MN SOC SERV ASS J HOOD
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ST PAUL MN
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MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

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State of Minnesota
Minnesota Housing Finance Agency

In the Matter of the Proposed Adoption of
Rules of the Minnesota Housing Finance Agency
Relating to the Income Limits for the Home
Improvement Loan Program.

Statement of Need
and Reasonableness

12 MCAR § 3.002(0)(3)

Minnesota Statutes, Section 462A.03, Subdivision 10, requires that the Minnesota Housing Finance Agency establish in its rules income limits for the purpose of defining persons and families of low and moderate income. This is accomplished in two Agency rules. 12 MCAR § 3.002(0) establishes maximum limits for adjusted income. Adjusted income is, in turn, determined pursuant to a formula set forth in the definition in 12 MCAR § 3.002(N). The adjusted income limits for the Agency Home Improvement Loan Program have remained at $16,000 since the program was first implemented in 1975. Some modifications to the formula in 12 MCAR § 3.002(N) were made in 1977.

The proposed rule increases the adjusted income limits for the Agency Home Improvement Loan Program to $18,000. It is necessary to increase the income limits for the Home Improvement Loan Program because of increases in incomes due to inflation, and because these increases in incomes have significantly reduced the pool of eligible applicants since the income limit was first established in 1975.

There are four criteria specified in Minnesota Statutes § 462A.03, Subdivision 10, for the determination of persons and families of low and moderate income. They are: (a) the amount of total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; and (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amount at which private enterprise is providing sanitary, decent and safe housing. These criteria will be reviewed in more detail below.

The Minnesota Housing Finance Agency Home Improvement Loan Program provides loans of up to $15,000 for home improvements for eligible persons and families. The interest rate varies from one percent to eight percent depending on income. Since the program began in 1975 the Agency has made 27,000 loans totaling $130,000,000 with an additional $30,000,000 committed to lenders. The program is financed with a combination of tax-exempt revenue bonds and state appropriations. Bonds have been sold equaling $149,000,000 and appropriations have totaled $30,000,000.

The first criterion listed in Section 462A.03, Subdivision 10, is "the amount of total income of such persons and families available for housing needs." Because this program serves low and moderate income families, it is very difficult to separate out those resources available for housing needs. For low and moderate income persons, there is competition among various needs for the use of each limited dollar. The Agency made a determination regarding this question when the income limit was set in 1975. The Agency is attempting to consider the effects of inflation on incomes and to continue to serve approximately the same population which it served in 1975.

In determining the income available for persons and families of low and moderate income, it is necessary to look at actual data generated by analyzing circuit breaker returns from the Minnesota Department of Revenue.

The 1977 and 1978 circuit breaker returns from the Department of Revenue are the most current income data available. According to this data in 1977 the statewide median income (unadjusted) for a non-elderly homeowner was $17,700 and in 1978 it was $18,900. (Approximately 85-90% of the loans in prior programs have been obtained by non-elderly homeowners.) If the median income were to continue to rise at 7% a year, the 1981 median income (unadjusted) would be approximately $21,500. The projected 1981 median income of $21,500 under the Agency's current formula for adjusting incomes would yield the following adjusted income for a "typical" borrower:*

$ 21,500	
- 750	(deduction - adult)
- 750	(deduction - adult)
- 750	(second income deduction)
- 500	(deduction - child)
$ 18,750	TOTAL

Thus, in 1981 the proposed program limit of $18,000 would be close to the median income of non-elderly homeowners. The Agency believes that this $18,000 figure is a reasonable adjusted gross income.

The second criterion listed in the statutory definition of persons and families of low and moderate income is the size of the family. This factor is addressed by the Agency in the formula for adjusted income under 12 MCAR § 3.002(N), which is not the subject of amendment of this rule hearing. The Agency Board did, however, take the income adjustments in 12 MCAR § 3.002(N) into account in the analysis leading to a determination that the rule establishing income levels needed to be amended as discussed above. The typical household receiving a home improvement loan under the existing MHFA program consists of two adults, and one child. Under 12 MCAR § 3.002(N), such a household receives a $750 deduction from gross income for each adult, a $500 deduction for a child and a $750 deduction for the second income (a total of $2,750).

The third factor specified in the statute is the cost and condition of housing facilities available. This criterion is primarily applicable to MHFA programs which finance the purchase of dwelling units.

The fourth factor is, "the eligibility of the persons and families to compete successfully in the normal housing market and to pay the amount at which private enterprise is providing sanitary, decent and safe housing." The Home Improvement Loan Program serves low and moderate income families who cannot afford the interest rates charged in the conventional home improvement loan market (12-15%).

*68% of loan recipients are married, average family size is three, both parents work.