

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 778

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1-11-82
DATE FOR REVIEW 1-20-82
DATE DUE 1-25-82

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 1-25-82 Disapproved _____ Returned to Agency 1-26-82

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 1-25-82 Revisor approved 1/13/82
disapproved 1/13/82

Note: close to but not identical with temporary rule - see our File. 682.

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.17.81 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
11.5.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
11.9.81 At least 30/~~21~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

? Agency's Findings of Fact see transmittal letter re change from Rules as Prop.

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JAMES J. SOLEM
Executive Director

DATE: January 25, 1982

ATTN: Monte Aaker, Research Coordinator

FROM : Larry D. Starns
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Adoption of Rules Amending Provisions Relating to the Rental Rehabilitation Loan Program Without a Public Hearing

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. Please 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 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 to the rules in the approved set.

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

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

LDS:drw

MINNESOTA HOUSING FINANCE AGENCY

January 7, 1982

Mr. Jerry Anderson
Special Assistant Attorney General
G-25 - Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program Without a Public Hearing.

Dear Mr. Anderson:

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

The following materials are submitted to you for your review pursuant to 1 MCAR § 1.203:

Rules as Adopted.

Order Adopting.

Certificate of Board's Resolution Adopting a Rule.

Order for Notice of Intent to Adopt a Rule Without Public Hearing.

Certificate of Agency's Authorizing Resolution.

Notice of Intent to Adopt a Rule Without Public Hearing.

Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

Mailing list Certificate.

Rule as Proposed.

Statement of Need and Reasonableness.

Certificate of Compliance With Rulemaking Procedures.

The Agency did not publish a Notice of Intent to Solicit Outside Opinion in connection with their rules. No requests for a hearing were received during the 30 day period.

The only change in the rule as proposed is made in 12 MCAR § 3.053B to make it consistent with the temporary rules on the same subject approved by your office in April of 1981.

Sincerely,

Monte Aaker

Monte Aaker
Research Coordinator

MA/bmw
Encl.

AG copy

Minnesota Housing Finance Agency

Adopted Rules Governing the Rental Rehabilitation Loan Program

Rules as Adopted

Chapter Six A:
Rental Rehabilitation Loans

12 MCAR S 3.053 Eligible applications.

A. Property interest. Each applicant for a rental rehabilitation loan must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Credit risk. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation as determined by the agency or by the lending institution, if any, servicing the loan on behalf of the agency pursuant to 12 MCAR S 3.013.

would read better if this phrase was moved as shown

C. Eligible improvements. To be eligible, the structure must be in need of repairs in order to bring it into compliance with Minn. Stat. S 116H.129, subd. 3, state energy conservation standards. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible. Further explanation of this requirement is in 12 MCAR S 3.054.

D. Compliance with zoning ordinances. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. Use of property restricted. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for rental rehabilitation loans.

F. Restriction on loan use. Rental rehabilitation loan proceeds must be used to finance only improvements upon or in

connection with existing structures.

G. Time of completion. All improvements must be reasonably capable of being completed within nine months of the date of the first disbursement of funds pursuant to the rental rehabilitation loan except for delays due to causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials.

H. Unavailability of financing. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. Required occupancy. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or fewer must be occupied by persons and families of low and moderate income in at least one of the units in the case of a one-unit or two-unit rental structure, two of the units in the case of a three-unit rental structure, three of the units in the case of a four-unit rental structure, four of the units in the case of a five-unit or six-unit rental structure, and at least 75 percent of the rental units in the case of rental structures containing more than six units.

12 MCAR S 3.054 Eligible improvements.

A. Restrictions in general. Improvements made with rental rehabilitation loan proceeds shall be in compliance with 1.-3.

1. The structure must be brought into compliance with the standards established in Minn. Stat. S 116H.129, subd. 3, state energy conservation standards.

2. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible.

3. For structures more than 15 years old, permanent general improvements as described in B. are eligible if the structure has been or will be brought into compliance with the state energy conservation standards.

B. Permanent general improvements. Each improvement must be a permanent general improvement. Permanent general improvements

shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property. However, conversions of structures, or portions thereof, from nonresidential use to residential use are not eligible. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Other codes and standards. Each improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards, but no application for a rental rehabilitation loan for property occupied by the owner shall be denied solely because the improvements will not bring the property into full compliance with all codes and standards, except that the property must be brought into compliance with state energy conservation standards as specified in A.1.

D. Public improvements. Rental rehabilitation loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that the proceeds may be used for improvements which will bring an individual sewage disposal system located on the property, including septic systems, into compliance with local, state, or federal environmental and sanitary standards.

E. Warranty. All contracts covering all or any portion of an improvement must contain an agency approved warranty of workmanship and materials.

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Minnesota Housing Finance Agency

Rule Numbers: 12 MCAR SS 3.053 and 3.054

Rule Title: Adopted Rules Governing the Rental Rehabilitation Loan Program

Type of Rules: Permanent x

Temporary ____

Documents Incorporated by Reference:

The attached Rules are approved as to form.

APPROVED AS TO LEGALITY
January 25, 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY Jerry D. Adams
SPECIAL ASSISTANT ATTORNEY GENERAL

Steven C. Cross
Revisor of Statutes

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 25 1982
Joan Anderson Growe
Secretary of State
3:10 PM

Name: Ann L. Bateson
Ann L. Bateson
Title: Deputy Revisor

Phone: 296-1536

Rules as Adopted

Chapter Six A:

Rental Rehabilitation Loans

12 MCAR § 3.053 Eligible applications.

A. Property interest. Each applicant for a rental rehabilitation loan must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Credit risk. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation as determined pursuant to 12 MCAR § 3.013.

C. Eligible improvements. To be eligible, the structure must be in need of repairs in order to bring it into compliance with Minn. Stat. S 116H.129, subd. 3, state energy conservation standards. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible. Further explanation of this requirement is in 12 MCAR § 3.054.

D. Compliance with zoning ordinances. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. Use of property restricted. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for rental rehabilitation loans.

F. Restriction on loan use. Rental rehabilitation loan proceeds must be used to finance only improvements upon or in connection with existing structures.

G. Time of completion. All improvements must be reasonably capable of being completed within nine months of the date of the first disbursement of funds pursuant to the rental rehabilitation loan except for delays due to causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials.

H. Unavailability of financing. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. Required occupancy. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or fewer must be occupied by persons and families of low and moderate income in at least one of the units in the case of a one-unit or two-unit rental structure, two of the units in the case of a three-unit rental structure, three of the units in the case of a four-unit rental structure, four of the units in the case of a five-unit or six-unit rental structure, and at least 75 percent of the rental units in the case of rental structures containing more than six units.

12 MCAR S 3.054 Eligible improvements.

A. Restrictions in general. Improvements made with rental rehabilitation loan proceeds shall be in compliance with 1.-3.

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2. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible.

3. For structures more than 15 years old, permanent general improvements as described in B. are eligible if the structure has been or will be brought into conpliance with the state energy conservation standards.

B. Permanent general improvements. Each improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially perserve or improve the basic livability, safety, or utility of the property. However, conversions of structures, or portions thereof, from nonresidential use to residential use are not eligible. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Other codes and standards. Each improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards, but no application for a rental rehabilitation loan for property occupied by the owner shall be denied solely because the improvements will not bring the property into full compliance with all codes and standards, except that the property must be brought into compliance with state energy conservation standards as specified in A.1.

D. Public improvements. Rental rehabilitation loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that the proceeds may be used for improvements which will bring an individual sewage disposal system located on the property, including septic systems, into compliance with local, state, or federal environmental and sanitary standards.

E. Warranty. All contracts covering all or any portion of an improvement must contain an agency approved warranty of workmanship and materials.

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

DA0062
1/13/82

X The form of the attached rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 2, line 12, correct the misspelled "perserve"

Steven C. Cross
Revisor of Statutes

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

- -

_____ The changes requested by the revisor are approved by the agency.

_____ The changes requested by the revisor are not approved by the agency

_____
Agency's Representative

- -

_____ The attorney general agrees that the changes requested by the revisor are form changes, not substantive changes.

_____
Assistant Attorney General

Rules as Proposed (all new material)

Chapter Six A:

Rental Rehabilitation Loans

12 MCAR S 3.053 Eligible applications.

A. Property interest. Each applicant for a rental rehabilitation loan must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Credit risk. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation, as determined by the agency or by the lending institution, if any, servicing the loan on behalf of the agency.

C. Eligible improvements. To be eligible, the structure must be in need of repairs in order to bring it into compliance with Minn. Stat. S 116H.129, subd. 3, state energy conservation standards. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible. Further explanation of this requirement is in 12 MCAR S 3.054.

D. Compliance with zoning ordinances. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. Use of property restricted. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for rental rehabilitation Loans.

F. Restriction on loan use. Rental rehabilitation loan proceeds must be used to finance only improvements upon or in connection with existing structures.

G. Time of completion. All improvements must be reasonably capable of being completed within nine months of the date of the first disbursement of funds pursuant to the rental rehabilitation loan except for delays due to causes beyond the

applicant's reasonable control, such as fire, strike, and shortage of materials.

H. Unavailability of financing. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. Required occupancy. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or fewer must be occupied by persons and families of low and moderate income in at least one of the units in the case of a one-unit or two-unit rental structure, two of the units in the case of a three-unit rental structure, three of the units in the case of a four-unit rental structure, four of the units in the case of a five-unit or six-unit rental structure, and at least 75 percent of the rental units in the case of rental structures containing more than six units.

12 MCAR S 3.054 Eligible improvements.

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3. For structures more than 15 years old, permanent general improvements as described in B. are eligible if the structure has been or will be brought into compliance with the state energy conservation standards.

B. Permanent general improvements. Each improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property. However, conversions of structures, or portions thereof, from nonresidential use to residential use are not eligible. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

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D. Public improvements. Rental rehabilitation loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that the proceeds may be used for improvements which will bring an individual sewage disposal system located on the property, including septic systems, into compliance with local, state, or federal environmental and sanitary standards.

E. Warranty. All contracts covering all or any portion of an improvement must contain an agency approved warranty of workmanship and materials.

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

Agency Minnesota Housing Finance Agency

Division

Agency Contact James Solem, Executive Director Phone Number 296-7608

Title: Proposed Rules Governing Rental Rehabilitation Loans for Structures Occupied Primarily by Persons and Families of Low and Moderate Income

Type of Rules: Permanent X Temporary

Incorporations by References:

Rule Number	Material Incorporated Author Title Place Publisher Date Cost Places Available
12 MCAR S 3.054 C.	". . . all applicable health, fire prevention, building, and housing codes and standards . . ."
12 MCAR S 3.054 D.	". . . local, state, or federal environmental and sanitary standards"

See Additional references on back Yes No X

Duplication of Statutory Language None apparent

Rule Number	Statutory Section Duplicated

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Theresa M. Lauterbach

Title: Assistant Revisor

Phone: 296-0956

Minnesota Housing Finance Agency

Notice of Correction of Publication of Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program

The Notice of Intent of Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program Without a Public Hearing published on August 24, 1981 at 6 S.R. 216 did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed in the original notice.

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412 subd. 4h(1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Mary Tingerthal, Manager

Home Improvement Programs

Minnesota Housing Finance Agency

Suite 200 - Nalpak Building

333 Sibley Street

St. Paul, Minnesota 55101

Telephone (612) 297-3126

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Ms. Tingerthal upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Ms. Tingerthal.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Ms. Tingerthal.

Please be advised that Minn Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) as 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 $250.00, 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 $250.00, not including his own traveling 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

DATED: October 26, 1981

James J. Solem

Executive Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Adoption of Rules
Amending Provisions Relating to the
Rental Rehabilitation Loan Program
Without a Public Hearing.

ORDER ADOPTING RULES

Notice of the Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 28, 1981, and Notice of Correction was published in the State Register on November 9, 1981, and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on November 5, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after the Corrected Notice, received fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for the reasonableness of the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Minnesota Housing Finance Agency Relating to the Rental Rehabilitation Loan Program are adopted this 17th day of December, 1981 pursuant to authority vested in the Agency by Minnesota Statutes section 462A.06, subdivision 4 and 11.

James J. Solem, Executive Director

CERTIFICATE OF AGENCY'S

AUTHORIZING RESOLUTION

I, James J. Solem, do hereby certify that I am the Executive Director of the Minnesota Housing Finance Agency, an Agency 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 Agency and properly called and held on the 23rd day of July, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that James J. Solem, Executive Director of the Minnesota Housing Finance Agency, by and he hereby is authorized and directed to give public notice for the purpose of promulgating rules of the Minnesota Housing Finance Agency without a public hearing, said rules relating to the Rental Rehabilitation Loan Program, as well as to perform any and all acts incidental thereto, including the signing of a notice of intent to adopt rules without a public hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of September, 1981.

James J. Solem, Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program Without a Public Hearing

AFFIDAVIT OF MAILING

Judith A. Keiser, being first duly sworn, deposes and says:

That on the 5th day of November, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached corrected Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid on all persons and associations who have requested that their names be placed on file with the State Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency.

Judith A Keiser

Subscribed and sworn to before me this 5th day of November, 1981.

Kathleen J Johnson

KATHLEEN J. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires Dec. 9, 1986

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

CERTIFICATE

In the Matter of the Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program Without a Public Hearing

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I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency is accurate and complete as of 3:00 p.m., this 5th day of November, 1981.

Judith A. Keiser

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program Without a Public Hearing

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 23rd day of July, 1981 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Housing Finance Agency for that purpose and be published in the State Register.

MINNESOTA HOUSING FINANCE AGENCY

James J. Solem, Executive Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

Proposed Adoption of Rules Governing
the Rental Rehabilitation Loan Program
Without a Public Hearing.

STATEMENT OF

NEED AND REASONABLENESS

The Minnesota Housing Finance Agency (hereinafter referred to as the "MHFA") is authorized in Minnesota Statute § 462A.06, subdivisions 4 and 11, to promulgate both temporary and permanent rules. In 1979, the Minnesota Legislature enacted Laws 1979, Chapter 327, Section 4 which authorized the Agency to create a Rental Rehabilitation Loan Program (hereinafter referred to as the "RRLP"). The Agency, pursuant to such authority, implemented a demonstration program, and promulgated temporary rules therefore which were approved by the Attorney General's Office on the 15th day of April, 1981. In the 1981 Legislative session the Minnesota Legislature enacted Laws 1981, Chapter 306, Section 8, which recodified the prior Legislation which authorized the Agency to operate a RRLP. Also, in 1981 the Agency converted the RRLP from a demonstration program to a permanent program, and promulgated the rules which are the subject of this Statement of Need and Reasonableness.

The Minnesota Legislature previously enacted Minnesota Statute § 116H.129, subdivision 3, which requires property owners to bring rental property they own into compliance with certain energy conservation standards which are contained therein. This can impose a severe financial burden upon the property owner, and may act as an impediment to the continued operation of the property as rental property. Under the RRLP, property owners may obtain loans to assist them in rehabilitating their rental property to bring it into compliance with the requirements of Minnesota Statute § 116H.129, subdivision 3, and the Agency secures the repayment of the loan by obtaining a mortgage on the property.

The Agency currently anticipates that the loans it makes or purchases under the RRLP will be submitted to the Federal Housing Administration (hereinafter referred to as the "FHA") for insurance under its Title I Program.

The proposed rules amend the Agency's Rules by inserting a new Chapter 6A which is codified as 12 MCAR §§ 3.053 and 3.054. It is reasonable and necessary to adopt new rules to assist in the implementation of a new permanent program.

12 MCAR § 3.053 A.

The requirements contained in this proposed rule correspond to requirements imposed by the FHA under its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program, it is necessary to adopt such requirements, and the proposed rule is therefore necessary and reasonable.

12 MCAR § 3.053 B.

In order to insure that a loan made under the RRLP will be repaid, it is necessary and reasonable to require that an applicant be a reasonable credit risk and satisfy normal credit standards. Therefore, the requirements contained in the proposed rule are necessary and reasonable.

12 MCAR § 3.053 C.

The requirements in this proposed rule correspond to requirements in the enabling Legislation. In enacting such Legislation the Minnesota Legislature deemed that such requirements

are necessary and reasonable, and therefore, the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.053 D.

The Agency intends on protecting itself against any defaulted loans by obtaining a security interest, in the form of a mortgage, in the property to be improved with the proceeds of a loan made under the RRLP, and upon default of a loan it may obtain title to the property. The Agency could have problems in disposing of such property if the property did not comply with applicable zoning ordinances or other applicable land use guides. Therefore, in order to minimize problems in disposing of defaulted property, the requirements contained in the proposed rule are necessary and reasonable.

12 MCAR § 3.053 E.

The enabling Legislation states that the Agency may make or purchase loans on rental property which does not comply with the standards established in Minnesota Statute § 116H.129, subdivision 3. The wording in this proposed rule corresponds to the wording in Minnesota Statute § 116H.129 which describes the type of rental property that must comply with subdivision 3 thereof. In enacting Minnesota Statute § 116H.129, the Minnesota Legislature deemed what would be reasonable and necessary as to the type of rental property that should comply therewith, and therefore the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.053 F.

The RRLP is a property rehabilitation program, and therefore it is necessary and reasonable to limit the use of the loan proceeds from such program to finance only improvements for existing structures.

12 MCAR § 3.053 G.

The requirement contained in this proposed rule corresponds to a requirement imposed by the FHA in its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program it is necessary to adopt such a requirement, and this proposed rule is therefore necessary and reasonable.

12 MCAR § 3.053 H.

The Agency does not wish to compete with private lenders, and therefore it is reasonable and necessary to require that conventional financing not be available from private lenders upon equivalent terms and conditions.

12 MCAR § 3.053 I.

The enabling Legislation states that loans made under the RRLP must be for property that is occupied or intended for occupancy primarily by low and moderate income tenants. This proposed rule delineates what will satisfy the requirement that the occupancy be primarily by low and moderate income tenants. The requirements for structures containing six rental units or less are the maximum that could be imposed without requiring all of the rental units to be rented to such individuals, and therefore they are reasonable and necessary. A requirement of 75% for all other structures is a reasonable interpretation of the meaning of the word "primarily", and a specific interpretation for such requirement is necessary.

12 MCAR § 3.054 A.

The requirements in this proposed rule correspond to the requirements in the enabling Legislation. In enacting such Legislation the Minnesota Legislature deemed that such require-

ments are necessary and reasonable, and in the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.054 B.

The enacting Legislation only states that for property over 15 years old, the proceeds of a loan made under the RRLP may also be used for moderate rehabilitation of the property, but does not indicate what types of improvements will satisfy such requirement. Therefore it is necessary to delineate what types of improvements will qualify under the "moderate rehabilitation" wording of the enabling Legislation.

The basic charter of the Agency is to assist in the acquisition, production, rehabilitation and repair of housing for the residents of the State of Minnesota, and to improve the basic livability safety and utility of such. Therefore, it is reasonable and necessary to impose the requirements that are contained in the proposed rule.

12 MCAR § 3.054 C.

The intent of the RRLP is to assist property owners by providing loans, the proceeds of which will be used to bring structures into compliance with state energy conservation standards. The RRLP is not intended as a vehicle by which property owners can obtain funds to bring structures into compliance with any other code or standard. Therefore it is reasonable and necessary to only require that the work performed comply with all applicable codes and standards, and that the structure be brought into full compliance only with State Energy Conservation Standards.

12 MCAR § 3.054 D.

The requirements contained in this proposed rule correspond to requirements imposed by the FHA under its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program, it is necessary to adopt such requirements, and the proposed rule is therefore necessary and reasonable.

12 MCAR § 3.054 E.

Since the Agency possesses a mortgage on the improved property as security for repayment of the loans made under the RRLP, it is reasonable and necessary for the Agency to insure that the work performed is done in a satisfactory manner. Therefore, it is reasonable and necessary for the Agency to require that all work be covered by a warranty in a form acceptable to it.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Amendment to the Adoption of Rules Governing the Rental Rehabilitation Loan Program.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General, James E. Dinerstein do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

James E. Dinerstein
Special Assistant Attorney General

Dated: January 5, 1982