

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA HOUSING FINANCE AGENCY

May 18, 1983

Mr. Larry Starns
Special Assistant Attorney General
G-25 Administration Building
50 Sherburne Building
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Adoption of Rules Governing the Definition of Adjusted Income and the Effective Date of this Rule Without a Public Hearing.

Dear Mr. Starns:

Enclosed please find for your review pursuant to Minnesota Statutes Sections 14.26, the adopted rules of the Minnesota Housing Finance Agency.

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

Rule as Adopted;

Order Adopting;

Certificate of Board's Resolution Adopting the Rule;

Order of Notice of Intent to Adopt Rule Without a Public Hearing;

Certificate of Agency's Authorizing Resolution;

Notice of Intent to Adopt Rule Without a Public Hearing;

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

Mail List Certificate;

Rule as Proposed;

Statement of Need and Reasonableness;

Written Comments; and

Certificate of Compliance with Rulemaking Procedures.

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

comment period. The only changes in the rule as proposed have been made in response to the enclosed written comments from the Minneapolis Community Development Agency and the St. Paul Department of Planning and Community Development, which are self explanatory and, accordingly, no Findings of Fact and Conclusions are enclosed.

Sincerely,

James J. Solem
Executive Director

JJS/jak

Encl.

Our File No. 4141

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-18
DATE FOR REVIEW 5-27
DATE DUE 6-1

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

Approved _____ Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State _____ Revisor approved 5/20/83
disapproved _____

✓ Rule as Adopted

____ Rule as Proposed

✓ Order Adopting 4.28.83 Date

____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
2 Sufficiency See my comment.

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

✓ Mailing list Certificate

✓ Publication in State Register
3.28.83 At least 30/~~20~~ 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 changes made - see transmittal memo for justification

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

✓ 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

No requests Rec'd - see transmittal memo.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : James J. Solem

DATE: June 1, 1983

Attn: KARL J. KERMAN
Special Assistant Attorney General

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

TAM

PHONE: 296-4692

SUBJECT: Adopted Rules Relating to Adjusted Income, Income Limits and Amount of Grant or Loan in the Rehabilitation Loan Program, and Eligible Properties.

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;

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.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

Minnesota Housing Finance Agency

Adopted Rules Relating to the Definition of Adjusted Income (12 MCAR S 3.002 N.) and the Effective Date of this Rule (12 MCAR S 3.0021)

Adopted Rule Relating to the Income Limits for the Rehabilitation Loan Program (12 MCAR S 3.002 O.4.)

Adopted Rules Relating to the Amount of Grant or Loan in the Rehabilitation Loan Program (12 MCAR S 3.064) and Eligible Properties (12 MCAR S 3.066)

Rules as Adopted

12 MCAR S 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents <u>age 18 and over,</u> of a housing unit, after deducting the following:

1. an amount equal to 1,000 for each resident of the housing unit; and

2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned

unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR S 3.002 O.-1. 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. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

Exhibit 12 MCAR S 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	$19,000	$24,000
10.60-11.09%	$20,000	$25,000
11.10-11.59%	$21,000	$26,000
11.60-12.00%	$22,000	$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed $22,000 for the nonmetropolitan area and $27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families whose adjusted income does not exceed the greater of $16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall

not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed $7,000 and whose assets, excluding the property to be improved, does not exceed $25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed $24,000 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.

P.-V. [Unchanged.]

12 MCAR S 3.0021 Effective date.

The amendment to 12 MCAR S 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, <u>for home improvement loans under chapter 6 of these rules, and</u> for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR S 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lesser of:

A. $6,000 or

B. The actual cost of the work performed, or

C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR S 3.013. If the recipient has an adjusted income of $6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least $10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds $6,000 and who is financially capable of making a monthly loan payment of $10 or more shall be eligible for a flexible loan.

12 MCAR S 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

A.-D. [Unchanged.]

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN -2 1983
Joan Anderson Growe
Secretary of State

9:25
A.M.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Adoption of Rules
Governing the Definition of Adjusted Income
and the Effective Date of this Rule
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 March 28, 1983 and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minnesota Statutes section 14.14 subdivision 1 on March 25, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days, receiving 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 and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Minnesota Housing Finance Agency Governing the Definition of Adjusted Income and the Effective Date of this Rule are adopted this 28 day of April, 1983 pursuant to authority vested in the Agency by Minnesota Statutes section 462A, subdivision 4 and 11.

James J. Solem

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Adoption of Rules
Governing Adjusted Income

ORDER FOR NOTICE OF
INTENT TO ADOPT RULES
WITHOUT A PUBLIC HEARING

It is ordered this 27th day of January, 1983 that a Notice of Intent to Adopt Rules without a 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

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Arne Carlson, do hereby certify that I am Secretary 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, properly called, and held on the 27th day of January, 1983, 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 adjusted income, as well as to perform any and all acts incidental thereto, including signing of a notice of intent to adopt rules without a public hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of January, 1983.

Chairman

Secretary

MINNESOTA HOUSING FINANCE AGENCY

Proposed Rules Relating to the Definition of Adjusted Income (12 MCAR § 3.002 N.) and the Effective date of this Rule (12 MCAR § 3.0021)

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposed 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. § 14.21 to 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments 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. § 14.13 et. seq. 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:

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

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 Monte Aaker 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 Monte Aaker.

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

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, St. Paul, Minnesota 55155, (612) 296-5615.

Dated: March 25, 1983

James J. Solem
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Adoption of
Rules Governing Adjusted Incomes

Affidavit
of Mailing

Colleen M. Steglich, being first duly sworn, deposes and says:

That on the 25th day of March 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid to all persons and associations who have requested that their names be placed on file with the Minnesota Housing Finance Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency.

Colleen M. Steglich

Subscribed and sworn to before
me this 25th day of March,
1983.

Roseann M. Koch

ROSEANN M. KOCH
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires Mar. 31, 1983

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

MAILING LIST CERTIFICATE

In the Matter of the Adoption of Rules
Governing Adjusted Incomes

I hereby certify that the list of persons, associations and other interested groups who have requested, pusuant to Minn. Statutes section 14.14, subdivision 1, 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 this 25th day of March 1983.

Monte Aaker

Monte Aaker

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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.

Minnesota Housing Finance Agency

Proposed Rules Relating to the Definition of Adjusted Income (12 MCAR § 3.002 N.) and the Effective Date of this Rule (12 MCAR § 3.0021)

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 Minnesota Statute sections 14.21 to 14.28.

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 Minnesota Statute sections 14.13 to 14.20. 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:

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

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 Monte Aaker 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 Monte Aaker.

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

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, St. Paul, Minnesota 55155, telephone—612/296-5615.

March 10, 1983

James J. Solem
Executive Director

Rules as Proposed

12 MCAR § 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents of a housing unit, after deducting the following:

~~1. the income of any resident (except the primary income recipient) who is under 18 years of age or is a full-time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;~~

~~2. nonrecurring income, as determined by the executive director, and sums received for foster child care;~~

~~3. extraordinary medical or other expenses as the executive director approves for exclusion;~~

~~4. an amount up to $750 of the income of an additional income recipient 18 years of age or older other than the primary income recipient;~~

~~5. an amount equal to $750 for each resident of the housing unit who is 18 years of age or over (maximum of two), and $500 for each additional resident;~~

~~6. an amount up to $750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.~~

1. an amount equal to 1,000 for each resident of the housing unit; and

2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. 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. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Exhibit 12 MCAR § 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	$19,000	$24,000
10.60-11.09%	$20,000	$25,000
11.10-11.59%	$21,000	$26,000
11.60-12.00%	$22,000	$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed $22,000 for the nonmetropolitan area and $27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families whose adjusted income does not exceed the greater of $16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed ~~$6,000~~ $7,000 and whose assets, excluding the property to be improved, does not exceed $25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed $24,000 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.

P.-V. [Unchanged.]

12 MCAR § 3.0021 Effective date.

The amendment to 12 MCAR § 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR § 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lesser of:

A. $6,000 or

B. The actual cost of the work performed, or

C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR § 3.013. If the recipient has an adjusted income of $6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least $10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds $6,000 and who is financially capable of making a monthly loan payment of $10 or more shall be eligible for a flexible loan.

12 MCAR § 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

A.-D. [Unchanged.]

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the

extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct ~~installation~~ insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

Minnesota Housing Finance Agency

Proposed Rule Relating to the Income Limits for the Rehabilitation Loan Program (12 MCAR § 3.002 O.4.)

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 rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statute sections 14.21 to 14.28.

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 Minnesota Statute sections 14.13 to 14.20. 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:

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

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 Monte Aaker 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 Monte Aaker.

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

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

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Adoption of Rules Governing Adjusted Income Without a Public Hearing.

CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Arne Carlson, do hereby certify that I am Secretary 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, duly and properly called and held on the 28th day of April, 1983, 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 the rules relating to Adoption of Rules Governing Adjusted Income attached hereto as Exhibit A be and they hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes section 462A.06, subdivision 4 and 11 and that James J. Solem, the Executive Director of the Agency, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of April, 1983.

Chairman

Secretary

Minnesota Housing Finance Agency

Adopted Rules Relating to the Definition of Adjusted Income (12 MCAR S 3.002 N.) and the Effective Date of this Rule (12 MCAR S 3.0021)

Adopted Rule Relating to the Income Limits for the Rehabilitation Loan Program (12 MCAR S 3.002 O.4.)

Adopted Rules Relating to the Amount of Grant or Loan in the Rehabilitation Loan Program (12 MCAR S 3.064) and Eligible Properties (12 MCAR S 3.066)

Rules as Adopted

12 MCAR S 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents age 18 and over, of a housing unit, after deducting the following:

1. an amount equal to 1,000 for each resident of the housing unit; and

2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned

unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR S 3.002 O.-1. 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. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

Exhibit 12 MCAR S 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	$19,000	$24,000
10.60-11.09%	$20,000	$25,000
11.10-11.59%	$21,000	$26,000
11.60-12.00%	$22,000	$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed $22,000 for the nonmetropolitan area and $27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families whose adjusted income does not exceed the greater of $16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall

not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed $7,000 and whose assets, excluding the property to be improved, does not exceed $25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed $24,000 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.

P.-V. [Unchanged.]

12 MCAR S 3.0021 Effective date.

The amendment to 12 MCAR S 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, <u>for home improvement loans under chapter 6 of these rules, and</u> for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR S 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lesser of:

A. $6,000 or

B. The actual cost of the work performed, or

C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR S 3.013. If the recipient has an adjusted income of $6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least $10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds $6,000 and who is financially capable of making a monthly loan payment of $10 or more shall be eligible for a flexible loan.

12 MCAR S 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

A.-D. [Unchanged.]

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

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 Definition
of Adjusted Income and
the Effective Date of
Implementation

Statement of Need and Reasonableness

12 MCAR § 3.002 (N)

Minnesota Statutes, S 462A.03, Subd. 10, requires that the Minnesota Housing Finance Agency (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 rules: (1) 12 MCAR § 3.002 (O) which establishes maximum adjusted income; and (2) 12 MCAR § 3.002 (N) which determines adjusted income purusant to a formula established in that rule. The Agency proposes to make technical changes in that formula. The current formula for adjusting incomes was established in 1977. The Agency proposes to make changes that will make the administration of the Agency's programs easier. These changes are technical and reflect the criteria that the Agency is to follow in determining low and moderate income.

Minnesota Statutes S 462A.03, Subd. 10, specifies four criteria for the determination of persons and families of low and moderate income. They are:

(a) the amount of total income such persons and families have 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 amounts at which private enterprise is providing sanitary, decent and safe housing.

12 MCAR 3.002 (N) (1) is stricken to reflect the proposed deletion of a deduction of the income of any adult resident under the age of 18. The deletion of this deduction is reasonable because, in the Agency's experience, these sources of income are rarely included in gross income, because they are considered inconsequential by the applying household. The deduction is therefore confusing, and is frequently misused.

12 MCAR 3.002 (N) (2) is stricken to reflect the proposed deletion of a deduction for non-recurring income. The deletion of this deduction is reasonable because, in implementing this rule, the Agency uses the gross household income projected one year from the date of application. It is the nature of non-recurring income (most frequently gifts) that it is not generally anticipated. Non-recurring income is therefore rarely included

in gross income and need not be accommodated in a deduction.

12 MCAR 3.002 (N) (2) also includes a deletion of a deduction of sums received for foster child care. The deletion of this deduction is reasonable because foster children are considered residents of the household and are therefore accommodated by the standard deduction.

12 MCAR 3.002 (N) (3) pertaining to extraordinary medical expenses is renumbered as 12 MCAR 3.002 (N) (1).

12 MCAR 3.002 (N) (4) is stricken to reflect a proposed deletion of the deduction of up to $750 of a secondary income recipient. The deletion of this deduction is reasonable because a large majority of the applying households with two adults have two income sources. This was not the case in 1977 when the current rule was adopted to allow for inequities between one income and two income households. Two income households are now the majority and it is no longer necessary to provide this deduction.

12 MCAR 3.002 (N) (5) currently provides a $750 deduction for each of up to two adults and a $500 deduction for each additional resident of the household. The Agency proposes in the renumbered 12 MCAR 3.002 (N) (1) to change these deductions so that the deduction for each resident will be $1000. The proposal to make all deductions the same is necessary to simplify the process of calculating adjusted income. Income calculations are generally made by entities, such as lending institutions, acting on behalf of the Agency. Because errors in calculation can affect an applicants' eligibility for a program and because the calculation is actually done by many entities, it is reasonable for the Agency to make the calculation as simple as possible, while complying with the mandate of the statute to take into account the size of the family in calculating income.

The increase in the amount of the deduction to $1000 is proposed to reflect increased living expenses since the rule was adopted in 1977.

12 MCAR 3.002 (N) (6) is stricken to reflect a proposed deletion of up to $750 of child care expenses. This deletion is reasonable because the proposed increase in the per resident standard deduction to $1000 is sufficient to accommodate child care expenses.

12 MCAR § 3.0021

This proposed new rule adopts a schedule of effective dates for the revised 12 MCAR § 3.002 (N). Because 12 MCAR § 3.002 (N) affects all programs administered by the Agency, it is necessary to provide a schedule by which each program can adequately implement the change. The commencement of a new funding cycle for each program requires the revision of program forms, procedural manuals and brochures, all of which contain information about the adjusted gross income calculation. It is therefore reasonable to provide for an effective date for this rule at a time at or near the projected starting date of the next funding cycle for each program.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Adoption of Rules Governing the Definition of Adjusted Income and the Effective Date of this Rule

STATEMENT OF COMPLIANCE WITH THE RULEMAKING PROCEDURES

I, Special Assistant Attorney General, Karl J. Herman 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.

Karl J. Herman
Special Attorney General

Dated: 5/18/83