

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1044B

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-2-84
DATE FOR REVIEW 7-11-84
DATE DUE 7-16-84

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

Approved July 16, 1984 (LOS) Disapproved ____ Returned to Agency ____

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 7-17-84 Revisor approved 7/3/84 disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 6/28/84 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
5.11.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
5.14.84 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

✓ 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

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ALAN L. HANS, Deputy Director
Minnesota Housing Finance Agency

DATE: 7/16/84

Attn: KARL J. HERMAN/Special Assist. Attorney General

FROM : LARRY D. STARNS
Special Assistant Attorney General
LDS

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules Governing Cooperative/Rental Multifamily Housing Innovative Loans 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;

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: sa

MINNESOTA HOUSING FINANCE AGENCY

June 29, 1984

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

RE: In the Matter of the Proposed Adoption of Rules Governing Cocperative/Rental Multifamily Housing Innovative Loans Without a Public Hearing

Dear Mr. Starns

Enclosed please find for your review pursuant to Minnesota Statutes Sections 14.21 through 14.28, the adopted rules of the Minnesota Housing Finance Agency.

The following materials are submitted to you for your review pursuant to Minnesota Rules, Part 2000.0400:

Rule as Adopted;

Order Adopting;

Certificate of Board's Resolution Adopting the Rule;

Order of Notice to Adopt Rule Without a Public Hearing;

Certificate of Agency's Authorizing Resolution;

Notice of Intent to Adopt Rules Without a Public Hearing;

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

Mailing List Certificate;

Rule as Proposed;

Statement of Need and Reasonableness; 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 Agency did not receive any comments during the 30 day comment

period, nor did it receive any requests from persons desiring notice of the date of submission of the proposed rule to the Attorney General. The Adopted rules are the same as the Proposed rules.

Sincerely,

Alan L. Hans
Deputy Director

ALH/kjj

Encl.

AG copy.

Housing Finance Agency

Adopted Rules Governing Cooperative or Rental Multifamily Housing Innovative Loans

Rules as Adopted

4900.1220 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.1220 to 4900.1260, the following terms have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means one or more persons or entities that apply for a cooperative or rental multifamily housing innovative loan.

Subp. 3. **Borrower.** "Borrower" means an applicant that is granted a cooperative or rental multifamily housing innovative loan, and that is the maker of a note in evidence of such loan.

Subp. 4. **Cooperative or rental multifamily housing innovative loan.** "Cooperative or rental multifamily housing innovative loan" means a loan to be made to a borrower under Minnesota Statutes, section 462A.05, subdivision 18a, and the proceeds of which must come from the money in the fund established by Minnesota Statutes, section 462A.21, subdivision 9a.

Subp. 5. **Democratic resident association.** "Democratic resident association" means an association, incorporated or unincorporated, whose membership is limited to and open to residents of a project, and where each member of the association has an equal vote in the affairs of the association.

Subp. 6. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed the greater of $16,000 or 550 percent of the gross rental or annual carrying charge for the dwelling unit which they are to occupy; provided, however, that the gross rentals or annual carrying charge for at least 75 percent of the dwelling units in the project do not exceed 120 percent of the fair market rents for the geographical area in which the project is located, as

determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that higher gross rentals or annual carrying charges may be allowed for a dwelling unit in a project if the members determine that higher gross rents and annual carrying charges 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.

Subp. 7. **Project.** "Project" means a multifamily housing development for which a cooperative or rental multifamily housing innovative loan is requested.

4900.1230 ELIGIBILITY REQUIREMENTS.

Subpart 1. **For applicants.** To be eligible for selection for a cooperative or rental multifamily housing innovative loan, an applicant shall satisfy the following requirements:

A. The applicant shall be either a cooperative housing corporation or a limited dividend entity.

B. The applicant shall demonstrate the ability to organize and complete the project.

C. The applicant shall demonstrate that it has, or will have, the ability to repay the cooperative or rental multifamily housing innovative loan, and to obtain other financing, if needed, at the expiration of the loan.

D. The applicant shall have developed a training and education program for the residents of the project, and shall include a copy of the program with its application for a loan. The training and education program must include, at a minimum:

(1) details of how the resident association will be organized and operated;

(2) what the legal rights of the residents and the association are, and how the residents will be advised of these rights;

(3) what the financial interests and obligations of the individual residents and the association are, and how the residents will be advised of such obligations; and

(4) how the project will be managed and

maintained.

Subp. 2. **For projects.** To be eligible for selection for a cooperative or rental multifamily housing innovative loan, a project must satisfy the following requirements:

A. The project must be located in Minnesota.

B. The project must be in the form of a cooperative or rental multifamily housing development, which is either owned and operated on a nonprofit cooperative basis by the residents or owned by a limited dividend entity and operated by a residents' association.

C. The operation and management of the project must be substantially under the control of a democratic residents' association, which shall include the filling of housing unit vacancies.

4900.1240 OTHER REQUIREMENTS.

Subpart 1. **Unavailability of financing.** At the time of application for a cooperative or rental multifamily housing innovative loan, conventional financing for the purpose for which the loan is requested must not be available from private lenders upon equivalent terms and conditions.

Subp. 2. **Occupancy.** Initial occupancy in a project that receives a cooperative or rental multifamily housing innovative loan is limited to persons and families of low and moderate income as follows; provided, however, that to the extent necessary to avoid economic loss resulting from an inability to achieve full occupancy, and in order to encourage economic integration, with the prior written approval of the executive director, up to 25 percent of the units in a project may be occupied by persons and families who are not persons and families of low and moderate income.

Preference for occupancy in a project that receives a cooperative or multifamily housing innovative loan may not be given to persons and families by virtue of their prior residence in the community in which the project is located; except that, with the prior written approval of the executive director, preference may be given to persons and families displaced by

public action or natural disaster or for previous residents of the project.

4900.1250 SELECTION CRITERIA FOR COOPERATIVE OR RENTAL MULTIFAMILY HOUSING INNOVATIVE LOANS.

In determining whether or not to approve applications for cooperative or rental multifamily housing innovative loans, the agency shall examine the following facts:

A. the extent to which the project will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States Department of Housing and Urban Development;

B. the extent to which the project will provide long-term affordability to persons and families of low and moderate income;

C. the extent to which the resident association has control over the operation and management of the housing and over the filling of housing vacancies;

D. the geographic location of the proposed project within Minnesota, taking into account other projects theretofore approved for cooperative or rental multifamily housing innovative loans;

E. the period of time required to complete the project;

F. the amount and term of the requested cooperative or rental multifamily housing innovative loan, as compared to the total resources of the agency available for these loans; and

G. whether the applicable regional development commission has determined that the project is consistent with regional plans and policies.

4900.1260 PROJECT FEASIBILITY LOANS.

The agency may consider applications for a cooperative or rental multifamily housing innovative loan, the funds from which are to be used to determine the feasibility of a project. These applications need not comply with the requirements in part 4900.1230, subpart 1, item C.

APPROVED AS TO LEGALITY

July 16, 1984

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 17 1984
Joan Anderson
Secretary of State

10:35 A.M.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of Rules Governing Cooperative/Rental
Multifamily Housing Innovative Loans
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 May 14, 1984 and was send by United States mail to all persons on the list maintained by the Agency pursuant to Minnesota Statutes Section 14.14 Subdivision 1 on May 11, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days, receiving fewer than twenty-five 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 Cooperative/Rental Multifamily Housing Innovative Loans are adopted this 28th day of June, 1984 pursuant to authority vested in the Agency by Minnesota Statutes Section 462A.06, Subdivisions 4 and 11.

Alan L. Hans, Deputy Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Governing Cooperative/Rental Multifamily Housing Innovative Loans

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

It is ordered this 26th day of April, 1984 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

CERTIFICATE OF AGENCY'S

AUTHORIZING RESOLUTION

I, Robert A. Worthington, do hereby certify that I am Chairman 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 26th day of April, 1984, 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, be 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 Governing Cooperative/Rental Multifamily Housing Innovative Loans, 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 26th day of April, 1984.

Robert A. Worthington

Chairman

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of Rules Relating to Cooperative/Rental Multifamily Housing Innovative Loans

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. § 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received 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 rule 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:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. 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 Kathleen J. Johnson 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 Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 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 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, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

Dated: May 11, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.1220 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.1220 to 4900.1260, the following terms have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means one or more persons or entities that apply for a cooperative or rental multifamily housing innovative loan.

Subp. 3. **Borrower.** "Borrower" means an applicant that is granted a cooperative or rental multifamily housing innovative loan, and that is the maker of a note in evidence of such loan.

Subp. 4. **Cooperative or rental multifamily housing innovative loan.** "Cooperative or rental multifamily housing innovative loan" means a loan to be made to a borrower under Minnesota Statutes, section 462A.05, subdivision 18a, and the proceeds of which must come from the money in the fund established by Minnesota Statutes, section 462A.21, subdivision 9a.

Subp. 5. **Democratic resident association.** "Democratic resident association" means an association, incorporated or unincorporated, whose membership is limited to and open to residents of a project, and where each member of the association has an equal vote in the affairs of the association.

Subp. 6. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed the greater of $16,000 or 550 percent of the gross rental or annual carrying charge for the dwelling unit which they are to occupy; provided, however, that the gross rentals or annual carrying charge for at least 75 percent of the dwelling units in the project do not exceed 120 percent of the fair market rents for the geographical area in which the project is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that higher gross rentals or annual carrying charges may be allowed for a dwelling unit in a project if the members determine that higher gross rents and annual carrying charges

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

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.

Subp. 7. **Project.** "Project" means a multifamily housing development for which a cooperative or rental multifamily housing innovative loan is requested.

4900.1230 ELIGIBILITY REQUIREMENTS.

Subpart 1. **For applicants.** To be eligible for selection for a cooperative or rental multifamily housing innovative loan, an applicant shall satisfy the following requirements:

A. The applicant shall be either a cooperative housing corporation or a limited dividend entity.

B. The applicant shall demonstrate the ability to organize and complete the project.

C. The applicant shall demonstrate that it has, or will have, the ability to repay the cooperative or rental multifamily housing innovative loan, and to obtain other financing, if needed, at the expiration of the loan.

D. The applicant shall have developed a training and education program for the residents of the project, and shall include a copy of the program with its application for a loan. The training and education program must include, at a minimum:

(1) details of how the resident association will be organized and operated;

(2) what the legal rights of the residents and the association are, and how the residents will be advised of these rights;

(3) what the financial interests and obligations of the individual residents and the association are, and how the residents will be advised of such obligations; and

(4) how the project will be managed and maintained.

Subp. 2. **For projects.** To be eligible for selection for a cooperative or rental multifamily housing innovative loan, a project must satisfy the following requirements:

A. The project must be located in Minnesota.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

B. The project must be in the form of a cooperative or rental multifamily housing development, which is either owned and operated on a nonprofit cooperative basis by the residents or owned by a limited dividend entity and operated by a residents' association.

C. The operation and management of the project must be substantially under the control of a democratic residents' association, which shall include the filling of housing unit vacancies.

4900.1240 OTHER REQUIREMENTS.

Subpart 1. **Unavailability of financing.** At the time of application for a cooperative or rental multifamily housing innovative loan, conventional financing for the purpose for which the loan is requested must not be available from private lenders upon equivalent terms and conditions.

Subp. 2. **Occupancy.** Initial occupancy in a project that receives a cooperative or rental multifamily housing innovative loan is limited to persons and families of low and moderate income as follows; provided, however, that to the extent necessary to avoid economic loss resulting from an inability to achieve full occupancy, and in order to encourage economic integration, with the prior written approval of the executive director, up to 25 percent of the units in a project may be occupied by persons and families who are not persons and families of low and moderate income.

Preference for occupancy in a project that receives a cooperative or multifamily housing innovative loan may not be given to persons and families by virtue of their prior residence in the community in which the project is located; except that, with the prior written approval of the executive director, preference may be given to persons and families displaced by public action or natural disaster or for previous residents of the project.

4900.1250 SELECTION CRITERIA FOR COOPERATIVE OR RENTAL MULTIFAMILY HOUSING INNOVATIVE LOANS.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

In determining whether or not to approve applications for cooperative or rental multifamily housing innovative loans, the agency shall examine the following facts:

A. the extent to which the project will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States Department of Housing and Urban Development;

B. the extent to which the project will provide long-term affordability to persons and families of low and moderate income;

C. the extent to which the resident association has control over the operation and management of the housing and over the filling of housing vacancies;

D. the geographic location of the proposed project within Minnesota, taking into account other projects theretofore approved for cooperative or rental multifamily housing innovative loans;

E. the period of time required to complete the project;

F. the amount and term of the requested cooperative or rental multifamily housing innovative loan, as compared to the total resources of the agency available for these loans; and

G. whether the applicable regional development commission has determined that the project is consistent with regional plans and policies.

4900.1260 PROJECT FEASIBILITY LOANS.

The agency may consider applications for a cooperative or rental multifamily housing innovative loan, the funds from which are to be used to determine the feasibility of a project. These applications need not comply with the requirements in part 4900.1230, subpart 1, item C.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD513

Agency: Minnesota Housing Finance Agency

Division:

Agency Contact: Kathy Johnson

Minnesota Rules: Parts 4900.1220 to 4900.1260

Title: Proposed Rules Governing Cooperative or Rental Multifamily Housing Innovative Loans

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: April 23, 1984

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption
of Rules Governing Cooperative/Rental
Multifamily Housing Innovative Loans
Without a Public Hearing

AFFIDAVIT
OF MAILING

Kathleen J. Johnson, being first duly sworn, deposes and says:

Than on the 11th day of May, 1984, 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.

Kathleen J. Johnson
Kathleen J. Johnson

Subscribed and sworn to before
me this 11th day of May,
1984.

Faye Louise Smiles
Notary Public

FAYE LOUISE SMILES
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires June 30, 1984

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Adoption
of Rules Governing Cooperative/Rental
Multifamily Housing Innovative Loans
Without a Public Hearing

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota 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 completed this 11th day of May, 1984.

Kathleen J. Johnson

Subp. 3. Warranty of workmanship and materials. Contracts for construction or improvement of a dwelling unit that are financed in whole or in part by the proceeds from an accessory apartment loan must contain a warranty of workmanship and materials that is approved by the agency.

Housing Finance Agency

Proposed Rules Governing Cooperative or Rental Multifamily Housing Innovative Loans

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. §§ 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules within the 30-day comment period. The rule may be modified as the result of comments received 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 25 or more persons submit written requests for a public hearing on the proposed rule 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:

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. 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 Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, 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 Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

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(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

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.

purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Question should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

May 11, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.1220 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 4900.1220 to 4900.1260, the following terms have the meanings given them.

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4900.1230 ELIGIBILITY REQUIREMENTS.

Subpart 1. For applicants. To be eligible for selection for a cooperative or rental multifamily housing innovative loan, an applicant shall satisfy the following requirements:

A. The applicant shall be either a cooperative housing corporation or a limited dividend entity.

B. The applicant shall demonstrate the ability to organize and complete the project.

C. The applicant shall demonstrate that it has, or will have, the ability to repay the cooperative or rental multifamily housing innovative loan, and to obtain other financing, if needed, at the expiration of the loan.

D. The applicant shall have developed a training and education program for the residents of the project, and shall include a copy of the program with its application for a loan. The training and education program must include, at a minimum:

(1) details of how the resident association will be organized and operated;

(2) what the legal rights of the residents and the association are, and how the residents will be advised of these rights;

(3) what the financial interests and obligations of the individual residents and the association are, and how the residents will be advised of such obligations; and

(4) how the project will be managed and maintained.

Subp. 2. For projects. To be eligible for selection for a cooperative or rental multifamily housing innovative loan, a project must satisfy the following requirements:

A. The project must be located in Minnesota.

B. The project must be in the form of a cooperative or rental multifamily housing development, which is either owned

and operated on a nonprofit cooperative basis by the residents or owned by a limited dividend entity and operated by a residents' association.

C. The operation and management of the project must be substantially under the control of a democratic residents' association, which shall include the filling of housing unit vacancies.

4900.1240 OTHER REQUIREMENTS.

Subpart 1. Unavailability of financing. At the time of application for a cooperative or rental multifamily housing innovative loan, conventional financing for the purpose for which the loan is requested must not be available from private lenders upon equivalent terms and conditions.

Subp. 2. Occupancy. Initial occupancy in a project that receives a cooperative or rental multifamily housing innovative loan is limited to persons and families of low and moderate income as follows: provided, however, that to the extent necessary to avoid economic loss resulting from an inability to achieve full occupancy, and in order to encourage economic integration, with the prior written approval of the executive director, up to 25 percent of the units in a project may be occupied by persons and families who are not persons and families of low and moderate income.

Preference for occupancy in a project that receives a cooperative or multifamily housing innovative loan may not be given to persons and families by virtue of their prior residence in the community in which the project is located; except that, with the prior written approval of the executive director, preference may be given to persons and families displaced by public action or natural disaster or for previous residents of the project.

4900.1250 SELECTION CRITERIA FOR COOPERATIVE OR RENTAL MULTIFAMILY HOUSING INNOVATIVE LOANS.

In determining whether or not to approve applications for cooperative or rental multifamily housing innovative loans, the agency shall examine the following facts:

A. the extent to which the project will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States Department of Housing and Urban Development;

B. the extent to which the project will provide long-term affordability to persons and families of low and moderate income;

C. the extent to which the resident association has control over the operation and management of the housing and over the filling of housing vacancies;

D. the geographic location of the proposed project within Minnesota, taking into account other projects theretofore approved for cooperative or rental multifamily housing innovative loans;

E. the period of time required to complete the project;

F. the amount and term of the requested cooperative or rental multifamily housing innovative loan, as compared to the total resources of the agency available for these loans; and

G. whether the applicable regional development commission has determined that the project is consistent with regional plans and policies.

4900.1260 PROJECT FEASIBILITY LOANS.

The agency may consider applications for a cooperative or rental multifamily housing innovative loan, the funds from which are to be used to determine the feasibility of a project. These applications need not comply with the requirements in part 4900.1230, subpart 1, item C.

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 Proposed Adoption
of Rules Governing Cooperative/Rental
Multifamily Housing Innovative Loans
Without a Public Hearing

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, Robert A. Worthington, do hereby certify that I am Chairman 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 June, 1984, 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 Cooperative/Rental Multifamily Housing Innovative Loans attached hereto as Exhibit A be and they hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes 462A.06, Subdivisions 4 and 11 and that Alan L. Hans, Deputy 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 June, 1984.

Robert A. Worthington
Chairman

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Housing Finance Agency Relating to
Cooperative/Rental Multifamily
Housing Innovative Loans

Statement of Need and Reasonableness

In 1983, the Minnesota Legislature passed legislation (Legislation) which created an innovative housing loan program Minn. Stat. §462A.05, Subd. 18a (1983 Supp.) and appropriated funds to the Minnesota Housing Finance Agency (MHFA) to implement such a program. The funds are to be used expressly for the purpose of financing cooperative or rental multi-family housing that is either owned and operated on a nonprofit cooperative basis by the residents, or owned by a limited dividend entity and operated by a residents' association.

The Agency has drafted and adopted temporary Rules to implement the Cooperative or Rental Multifamily Housing Innovative Loan Program (Program). In compliance with the Administrative Procedures Act, the proposed Permanent Rules are necessary to allow the Agency to cintinue to operate the Program in accordance with the Legislation.

4900.1220 DEFINITIONS

For purposes of clarity in reading the Rule, definitions of terminology that may have an ambiguous meaning are provided at the beginning of the Rule. It is reasonable to define terminology used in the Rule so that all readers will have a similar understanding of the Rule.

With regard to the definition of persons and families of low and moderate income, the legislation requires that occupancy in the development be restricted to persons and families of low and moderate income as defined by Minn. Stat. §462A.03, Subd. 10. Such subdivision authorizes the Agency to promulgate rules regarding the definition of low and moderate income. For the Innovative Cooperative Loan Program the Agency has utilized the definition of low and moderate income promulgated for the Agency's Multifamily Program. It is reasonable to use the same definition of low and moderate income as is used in the Multifamily Rules because the proposed developments will be of the same nature as a multifamily rental development processed under the Agency's Multifamily Program. For purposes of consistency among the Agency's multifamily development programs, the application of the same definition of low and moderate income is reasonable.

4900.1230 ELIGIBILITY REQUIREMENTS

Eligibility requirements established in the Rule specify certain characteristics and qualifications that an applicant and a development must have in order for an applicant to receive a loan under the Program. It is necessary to establish the eligibility requirements of Subparts 1A, 1D, and Subparts 2B and 2C, of 4900.1230 because the criteria are specified in the Legislation. The Agency has reiterated the requirements in the Rule so that all eligibility criteria are comprehensively represented.

Subpart 1B of 4900.1230 requires that the applicant have the ability to organize and complete the development. This requirement is reasonable because it prescribes that applicants have a high probability of being successful in organizing and completing the development which in turn ensures that the funds are effectively utilized.

Subpart 1C of 4900.1230 requires that the applicant have the ability to repay the loan or obtain other financing, if needed, at the expiration of the loan. The capability of the applicant to repay the loan increases the Agency's ability to continue making loans and hence provide the benefit of the legislative appropriation to a variety of applicants and developments.

Subpart 2A of 4900.1230 requires that the development be located in the State of Minnesota. It is reasonable to restrict the use of funds for developments that are located in Minnesota so that the residents and economy of Minnesota benefit from an appropriation of Minnesota-earned dollars.

4900.1240 OTHER REQUIREMENTS

Other requirements under Subpart 1 of 4900.1240 that specify alternative sources of funding must not be available for the development upon equivalent terms and conditions. It is reasonable to qualify and limit the use of the funds only to those developments that are not feasible if they are required to use conventional financing.

The intent of the legislation is to make funds available for innovative loans that provide long-term affordability to residents. Because this type of housing may not be feasible in light of conventional financial underwriting criteria and market interest rates, it is clearly within the intent of the legislation to only finance developments that would not otherwise be feasible if the legislative appropriation were not available.

The occupancy requirement under Subpart 2 of 4900.1240 specifies that initial occupancy of the development must be restricted to persons and families of low and moderate income. Such occupancy requirement is necessary to meet the intent of the legislation in providing housing which is designed to provide long-term affordability to the residents of the development. The occupancy requirement is essentially the same as the Agency's occupancy for its Multifamily Program. It is reasonable for the Agency to apply similar requirements regarding occupancy to the Program for the purposes of consistent implementation of multifamily programs.

4900.1250 SELECTION CRITERIA

In the event that more applicants apply for the program dollars than are available to meet the demand, it is necessary for the Agency to be able to objectively establish a priority of funding. Selection criteria enable the Agency to prioritize a development in light of other requests from other developments.

Selection criteria 4900.1250 A, B, and C are reasonable in that the characteristics of the development are prioritized to the extent that the development meets the intent and spirit of the legislation.

It is reasonable to prioritize the development in terms of its location to other developments so that the appropriated dollars may benefit a large geographical area. Additionally, it is reasonable to prioritize the loan request in terms of its duration and the length of time to complete the development, so that the appropriation is efficiently recycled into future developments, thereby benefitting an increased number of loan requests. It is also reasonable to request that the development be consistent with regional plans and policies to ensure that a development funded under this program is not deleterious or in violation of other governmental policies.

4900.1260 PROJECT FEASIBILITY LOANS

This section of the Rule allows the Agency to consider applications for a loan, the proceeds of which would be used to determine the feasibility of a cooperative or rental multifamily housing development. Because the legislation was promulgated in order to encourage innovative housing, it is reasonable to consider application for which the purpose is to explore the feasibility of innovative housing, yet have not progressed to a point where firm financing is needed. Because this type of application may prove that a development proposal is infeasible, it is reasonable to not require repayment of the loan.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Therefore, the provisions contained in Minn. Stat. §14.115 (1983 Supp.) do not apply to the proposed rules discussed herein.

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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.

Dated: 6/29/84

Karl J. Herman
Special Assistant Attorney General