

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : April 23, 1987

TO : KATHLEEN J. JOHNSON
Minnesota Housing Finance Agency

FROM : MIKE MILES
Assistant Attorney General

PHONE : 6-6555

SUBJECT : In the Matter of the Adopted Rules Relating to Apartment Renovation Mortgage Program

The above-referenced rule has been approved as to its legality by the Attorney General on April 14, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

JMM:nah

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Adminsitrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RULE REVIEW CHECKLIST

File No. 1359 Docket No. 05.0009.0450

DATE RECEIVED 3/30/87
REVIEW DATE 4/8/87
DUE DATE 4/14/87

APPROVED 4/14/87
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FILED W/SEC. STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~
Date published in State Register
Comments

~~Petition for Adoption of a Rule~~

✓ Board's Authorizing Resolution

✓ Proposed rule
yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
462A.06 Subd 4+11 Statutory Authority
NO Small business statement
NO Expenditure of public money statement
Yes Signature

✓ Statement of Need and Reasonableness

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
Feb 13, 1987 Date (30)/25 days before adoption

✓ Publication in State Register
Feb 16, 1987 Date (30)/25 days before adoption

✓ Resolution Adopting

Findings of Fact, Conclusions & Order Adopting
3/26/86 Date

~~Written requests, submissions or comments~~

✓ Declaration of attorney
(Karl Herman Name of SAAG representing agency

✓ ~~Notice of Submission to Attorney General~~ Statement of Compliance

✓ ~~Affidavit of Mailing Notice to Attorney General~~ Order for Notice of Intent to Adopt

✓ Mailing List.

A6 Copy

Housing Finance Agency

Adopted Permanent Rules Relating to Apartment Renovation Mortgage Program

Rules as Adopted

4900.0356 ELIGIBLE APPLICATIONS.

Subpart 1. **Property interest.** An applicant for an apartment renovation mortgage loan must, at the time of application, possess one of the following interests in the property to be improved:

A. a fee title;

B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the option of the agency, subordination; or

C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Eligible borrowers.** Natural persons, public or private for profit or nonprofit corporations or entities, partnerships, joint ventures, or cooperatives are eligible to receive an apartment renovation mortgage loan.

Subp. 3. **Credit risk.** An applicant for an apartment renovation mortgage loan must be a reasonable credit risk with the capacity to pay the loan obligation, as determined by the agency.

Subp. 4. **Eligible structures.** To be eligible for improvements funded with an apartment renovation mortgage loan, the structure:

A. must be in need of improvements or repairs in order to bring it into compliance with Minnesota Statutes, section 116J.27, subdivision 3, state energy conservation standards; and

B. must contain a minimum of four dwelling units.

Subp. 5. **Compliance with zoning ordinances.** The structure to be improved must not be in violation of applicable zoning

ordinances.

Subp. 6. **Use of property restricted.** The property must be used primarily for residential purposes.

Subp. 7. **Restriction of loan use.** Apartment renovation mortgage loan proceeds may be used to refinance existing indebtedness secured by the property in conjunction with the funding of the improvements contemplated by part 4900.0357.

Subp. 8. **Unavailability of financing.** At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

Subp. 9. **Required occupancy.** At the time of loan closing or initial occupancy, at least 75 percent of the dwelling units in the structure to be improved must be occupied by low and moderate income persons and families, defined as follows: persons or families whose adjusted income does not exceed the greater of $16,000 or 66 times the gross rental for the unit; provided that the gross rental for the unit is correlated by the agency with fair market rents for the geographical area in which the property to be improved is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development. The agency may provide by contract with the borrower for rent levels during a predetermined period after loan closing which will be affordable to persons and families of low and moderate income, as defined in this subpart.

4900.0357 ELIGIBILITY REQUIREMENTS FOR APARTMENT RENOVATION MORTGAGE LOANS.

Subpart 1. **Restrictions on loans.** Improvements made with apartment renovation mortgage loans shall be in compliance with subparts 2 to 7.

Subp. 2. **State energy conservation standards.** In accordance with Minnesota Statutes, section 462A.05, subdivision 21, the structure must be brought into compliance with the standards established in Minnesota Statutes, section 116J.27, subdivision 3, state energy conservation standards.

Subp. 3. **Structures less than 15 years old.** For structures less than 15 years old, only improvements necessary to achieve compliance with the state energy conservation standards under Minnesota Statutes, section 462A.05, subdivision 21, are eligible.

Subp. 4. **Structures 15 years old or more.** For structures 15 years old or more, permanent general improvements as described in subpart 5 are eligible in addition to the improvements relating to state energy conservation standards referred to in subpart 2.

Subp. 5. **Permanent general improvements.** An improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property; which may include the installation or replacement of appliances as well as fixtures. Permanent general improvements shall not include materials, fixtures, appliances, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

Subp. 6. **Other code and standards.** An improvement must be made in compliance with applicable health, fire prevention, building, and housing codes and standards.

Subp. 7. **Public improvements.** Apartment renovation mortgage program loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements.

4900.0358 SELECTION CRITERIA FOR APARTMENT RENOVATION MORTGAGE PROGRAM LOANS.

In determining whether or not to accept applications for apartment renovation mortgage loans, the agency shall take the following criteria into consideration:

A. whether the location of the structure to be improved is such that it will enable the housing to be

successfully marketed at the proposed rents;

B. accessibility to schools, shopping, health care, recreation and social facilities, and centers of employment;

C. availability of a convenient access to public transportation;

D. availability and proximity of adequate sewer and water facilities, public utilities, and paved roads;

E. freedom from serious adverse environmental and site conditions;

F. the extent to which displacement of residents is minimized;

G. rental management qualifications and financial strength of the owner; and

H. reasonableness of property and property-related costs.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 22 1987
Joan Anderson Growe
Secretary of State

11:20 AM

APPROVED AS TO FORM AND LEGALITY

4/14 1987

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

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 29th day of January, 1987, 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 Apartment Renovation Mortgage Program as well as to perform any and all acts incidental thereto, including the signing of a notice of intent to adopt rules without a public hearing."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 29th day of January, 1987.

Robert A. Worthington
Chairman

Housing Finance Agency

Proposed Permanent Rules Relating to Apartment Renovation Mortgage Program

Rules as Proposed (all new material)

4900.0356 ELIGIBLE APPLICATIONS.

Subpart 1. **Property interest.** An applicant for an apartment renovation mortgage loan must, at the time of application, possess one of the following interests in the property to be improved:

A. a fee title;

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Subp. 5. **Compliance with zoning ordinances.** The structure to be improved must not be in violation of applicable zoning

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Subp. 6. **Use of property restricted.** The property must be used primarily for residential purposes.

Subp. 7. **Restriction of loan use.** Apartment renovation mortgage loan proceeds may be used to refinance existing indebtedness secured by the property in conjunction with the funding of the improvements contemplated by part 4900.0357.

Subp. 8. **Unavailability of financing.** At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

Subp. 9. **Required occupancy.** At the time of loan closing or initial occupancy, at least 75 percent of the dwelling units in the structure to be improved must be occupied by low and moderate income persons and families, defined as follows: persons or families whose adjusted income does not exceed the greater of $16,000 or 66 times the gross rental for the unit; provided that the gross rental for the unit is correlated by the agency with fair market rents for the geographical area in which the property to be improved is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development. The agency may provide by contract with the borrower for rent levels during a predetermined period after loan closing which will be affordable to persons and families of low and moderate income, as defined in this subpart.

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successfully marketed at the proposed rents;

B. accessibility to schools, shopping, health care, recreation and social facilities, and centers of employment;

C. availability of a convenient access to public transportation;

D. availability and proximity of adequate sewer and water facilities, public utilities, and paved roads;

E. freedom from serious adverse environmental and site conditions;

F. the extent to which displacement of residents is minimized;

G. rental management qualifications and financial strength of the owner; and

H. reasonableness of property and property-related costs.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Apartment Renovation Mortgage Programs

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Rules Relating to Apartment Renovation
Mortgage Program

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. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed 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 twenty-five 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. Sec. 14.14 et seq. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

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 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9794

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 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, and to determine whether the agency has the authority to adopt the rules and

whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests 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. Sec. 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: February 13, 1987

James J. Solem
Executive Director

MINNESOTA HOUSING FINANCE AGENCY

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Rules Relating to Apartment Renovation
Mortgage Program

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James J. Solem
Executive Director

Housing Finance Agency

Proposed Permanent Rules Relating to Apartment Renovation Mortgage Program

Rules as Proposed (all new material)

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

DSN

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In determining whether or not to accept applications for apartment renovation mortgage loans, the agency shall take the following criteria into consideration:

A. whether the location of the structure to be improved is such that it will enable the housing to be

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successfully marketed at the proposed rents;

B. accessibility to schools, shopping, health care, recreation and social facilities, and centers of employment;

C. availability of a convenient access to public transportation;

D. availability and proximity of adequate sewer and water facilities, public utilities, and paved roads;

E. freedom from serious adverse environmental and site conditions;

F. the extent to which displacement of residents is minimized;

G. rental management qualifications and financial strength of the owner; and

H. reasonableness of property and property-related costs.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Apartment Renovation Mortgage Programs

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

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 Apartment Renovation
Mortgage Program

State of Need
and Reasonableness

4900.0356

This part sets forth the characteristics of eligible applications for participation in the Apartment Renovation Mortgage Program (the "Program").

Subp. 1

Paragraphs A, B and C of this subpart specify the property interest which an applicant must possess to apply for a loan under the Program, and are both reasonable and necessary to ensure that the applicant has the legal capability of acquiring the status of title required to secure the Agency's loan, as well as the initial investment in the property evidencing the capacity and inclination to proceed with the underwriting process and close the loan.

Subp. 2

This subpart is intended to clarify that loans may be made to natural persons as well as all varieties of borrowing entities, and is not a limitation on the Agency's lending powers under the Program.

Subp. 3

The requirement that a loan applicant be a reasonable credit risk is necessary to ensure the financial viability of the Program and thereby secure the Agency's bondholders.

Subp. 4

Paragraph A of this subpart is necessary to meet the requirements of Subd. 21 of Section 462A.05 of Minnesota Statutes, the legislative basis for the Program; and Paragraph B thereof is a reasonable Program rental unit limitation for eligible loans, to restrict applications to a number which the Agency can effectively process within its administrative capabilities, consistent with its other public responsibilities.

Subp. 5

The requirement for compliance with zoning ordinances is both reasonable and necessary to obtain the required building permits, to ensure the security of the Agency's loans, and to meet the Agency's public purposes.

Subp. 6

This subpart requires the property to be improved to be used primarily for residential purposes. This requirement is reasonable because the Program is intended to improve the housing conditions of low and moderate income persons who will reside in the property. In order to achieve this goal the property should be primarily residential in nature.

Subp. 7

This subpart authorizes the use of Program loan proceeds to refinance existing indebtedness secured by the property in conjunction with the funding of improvements contemplated by part 4900.0357. This provision is necessary to conform to the statutory basis for the Program.

Subp. 8

This subpart requires that at the time of application, conventional financing not be available from private lenders upon equivalent terms and conditions. This requirement is based on the Agency's statute and is reasonable because the financing made available through the Agency's Program is not intended to compete with private financing, but is intended to provide lower than market interest rate loans for the public purpose of benefitting low and moderate income tenants.

Subp. 9

This subpart requires that at the time of loan closing or initial occupancy, at least 75% of the rental units in the structure to be improved must be occupied by persons and families of low and moderate income. Because the statutory mission of the Agency is to benefit low and moderate income persons and families through the various Agency programs, it is reasonable to ensure that this Program assist low and moderate income persons and families by so restricting initial occupancy. In order to make continuing occupancy affordable to such persons and families, it is both reasonable and necessary to further provide that the Agency, by contract with the borrowers, may set rent levels for the improved properties in amounts which will be within the means of low and moderate income tenants.

4900.0357

This part establishes eligibility requirements for the entitlement to loan proceeds under the Program.

Subp. 1

In order to conform to the Agency's statutory basis for the Program, it is necessary to limit the uses of loan proceeds in accordance with subparts 2 to 7.

Subps. 2, 3 and 4

Subparts 2 through 4 specify the types of improvements which are eligible for funding and the age of the structures upon which these improvements may be made. These requirements are both reasonable and necessary in that they ensure compliance with the statutory authority under which the Program is permitted to operate.

Subp. 5

This subpart requires improvements funded pursuant to the Program to be permanent general improvements. The Agency will lend funds for a term of 20 to 30 years. It is reasonable to expect the improvements for which the funds are devoted will have a duration which will enhance the life of the building and in turn provide a reasonable real estate security for the loan.

Subp. 6

This subpart requires that improvements be made in compliance with applicable health, fire prevention, building, and housing codes and standards. In order to achieve its public purposes, it is both reasonable and necessary to expect that funds received from a public agency be used in conformance with the applicable laws and regulations of the municipality and/or the state in which the property is located.

Subp. 7

This subpart prohibits the use of loan proceeds for the payment of public improvement assessments. It is reasonable to restrict the use of loan proceeds to improvements to the structure which will benefit its occupants.

4900.0358

This part sets forth the selection criteria for applicants for Apartment Renovation Mortgage Program loans.

Paragraph A. This paragraph requires that the location of the structure to be improved be in an area which will enhance the successful marketing of the leases in the building at the proposed rents. This criteria is reasonable because the marketability of the development affects its cash flow, which in turn affects the borrower's ability to repay the Agency loan.

Paragraph B. This paragraph emphasizes the proximity of the development to schools, shopping, health care, recreation and social facilities, and centers of employment. It is reasonable to prioritize funding to favor those proposals which are accessible to such services, which will thereby enhance the living environment for the occupants of the development as well as improve the security for the Agency's loans.

Paragraph C. This paragraph emphasizes the availability of access to public transportation. This criteria is reasonable in that many tenants rely on public conveyances as their sole means of transport, and this proximity consequently enhances both the value of the building and the environment of such occupants.

Paragraph D. This criteria prioritizes the availability and proximity of adequate sewer and water facilities, public utilities and paved roads. This priority is both necessary and reasonable in that the structure must have access to such facilities in order to be habitable.

Paragraph E. This paragraph prohibits funding of those developments which are impacted by adverse environmental and site conditions. This criteria is reasonable because the Agency must secure its loan funds by the real estate mortgaged, and the extent to which the site negatively impacts the Agency's security must be considered in selecting eligible buildings.

Paragraph F. This criteria emphasizes the minimization of tenant displacement. This requirement is reasonable because the Program is intended to improve the living conditions of low and moderate income tenants by physically improving the property in which they reside. Minimization of displacement ensures that the occupants of the pre-rehabilitated building benefit from the rehabilitation.

Paragraph G. This paragraph prioritizes the rental management qualifications and financial strength of the owner-borrower. It is reasonable to emphasize the building owner's financial strength and management capabilities in selecting proposals, to ensure that funds expended on a property are loaned to an individual or entity with the financial capability and expertise to maintain the property over the term of the Agency's loan.

Paragraph H. This criteria emphasizes the reasonableness of property and property related costs in selecting proposals. This criteria is reasonable because it ensures that loan funds are effectively used and are provided to as many applicants as possible.

The Agency is cognizant of the provisions of Section 14.115 of Minnesota Statutes, entitled "Small Business Considerations in Rulemaking"; however, since the recipients of the funds under the Apartment Renovation Mortgage Program must be individuals or entities owning rental properties who will use the funds to finance improvements or repairs mandated by state law for energy conservation purposes, the proposed rules do not affect small businesses directly, and the said

law, by its terms, is inapplicable to these proposed rules. In addition, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have indirect effect on small businesses, the effect is to make such funds more readily available and, as a result, the proposed rules have no negative effect on small businesses. Therefore, the provisions contained in Minnesota Statutes §14.115 (1986) do not apply to the proposed rules discussed herein.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Rules Relating to
Apartment Renovation Mortgage Program
Without a Public Hearing

AFFIDAVIT
OF MAILING

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

That on the 13th day of February, 1987, 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 13th day of February,
1987.

Susan K. Noren

Notary Public

SUSAN K. NOREN
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES APRIL 8, 1991

7190.0016 REOPENING A CLAIM.

Within a reasonable time, not to exceed six years from the final determination of a claim, the board by majority vote may reopen the investigation of a claim upon the presentation of new material evidence which with reasonable diligence could not have been found and produced at the time of the claim determination.

7190.0017 PAYMENT OF COMPENSATION.

Subpart 1. **Claimant payment.** Payment of all compensation shall be directly to the claimant.

Subp. 2. **Subrogation.** An offer of compensation from the board shall be subject to the claimant assigning to the board the claimant's rights to recover losses from other sources. The claimant shall agree to cooperate fully with the board in any subrogation action brought by the board.

Subp. 3. **Acceptance deadline.** A claimant must accept or reject in writing an offer of compensation from the board within 30 days of receiving the offer. If the board receives no response from the claimant, the board shall consider the offer rejected.

Housing Finance Agency

Proposed Permanent Rules Relating to Apartment Renovation Mortgage Program

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. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as a 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 twenty-five 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. Sec. 14.14 *et. seq.* Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

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 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9794

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 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, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests 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. Sec. 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: 13 February 1987

James J. Solem, Executive Director
Minnesota Housing Finance Agency

Rules as Proposed (all new material)

4900.0356 ELIGIBLE APPLICATIONS.

Subpart 1. **Property interest.** An applicant for an apartment renovation mortgage loan must, at the time of application, possess one of the following interests in the property to be improved:

A. a fee title;

B. a fee title subject to a mortgage or other lien securing a debt capable of prepayment or, at the option of the agency, subordination; or

C. a mutually binding contract or option for the purchase of fee title.

Subp. 2. **Eligible borrowers.** Natural persons, public or private for profit or nonprofit corporations or entities, partnerships, joint ventures, or cooperatives are eligible to receive an apartment renovation mortgage loan.

Subp. 3. **Credit risk.** An applicant for an apartment renovation mortgage loan must be a reasonable credit risk with the capacity to pay the loan obligation, as determined by the agency.

Subp. 4. **Eligible structures.** To be eligible for improvements funded with an apartment renovation mortgage loan, the structure:

A. must be in need of improvements or repairs in order to bring it into compliance with Minnesota Statutes, section 116J.27, subdivision 3, state energy conservation standards; and

B. must contain a minimum of four dwelling units.

Subp. 5. **Compliance with zoning ordinances.** The structure to be improved must not be in violation of applicable zoning ordinances.

Subp. 6. **Use of property restricted.** The property must be used primarily for residential purposes.

Subp. 7. **Restriction of loan use.** Apartment renovation mortgage loan proceeds may be used to refinance existing indebtedness secured by the property in conjunction with the funding of the improvements contemplated by part 4900.0357.

Subp. 8. **Unavailability of financing.** At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

Subp. 9. **Required occupancy.** At the time of loan closing or initial occupancy, at least 75 percent of the dwelling units in the structure to be improved must be occupied by low and moderate income persons and families, defined as follows: persons or families whose adjusted income does not exceed the greater of $16,000 or 66 times the gross rental for the unit; provided that the gross rental for the unit is correlated by the agency with fair market rents for the geographical area in which the property to be improved is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development. The agency may provide by contract with the borrower for rent levels during a predetermined period after loan closing which will be affordable to persons and families of low and moderate income, as defined in this subpart.

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.

4900.0357 ELIGIBILITY REQUIREMENTS FOR APARTMENT RENOVATION MORTGAGE LOANS.

Subpart 1. **Restrictions on loans.** Improvements made with apartment renovation mortgage loans shall be in compliance with subparts 2 to 7.

Subp. 2. **State energy conservation standards.** In accordance with Minnesota Statutes, section 462A.05, subdivision 21, the structure must be brought into compliance with the standards established in Minnesota Statutes, section 116J.27, subdivision 3, state energy conservation standards.

Subp. 3. **Structures less than 15 years old.** For structures less than 15 years old, only improvements necessary to achieve compliance with the state energy conservation standards under Minnesota Statutes, section 462A.05, subdivision 21, are eligible.

Subp. 4. **Structures 15 years old or more.** For structures 15 years old or more, permanent general improvements as described in subpart 5 are eligible in addition to the improvements relating to state energy conservation standards referred to in subpart 2.

Subp. 5. **Permanent general improvements.** An improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property; which may include the installation or replacement of appliances as well as fixtures. Permanent general improvements shall not include materials, fixtures, appliances, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

Subp. 6. **Other code and standards.** An improvement must be made in compliance with applicable health, fire prevention, building, and housing codes and standards.

Subp. 7. **Public improvements.** Apartment renovation mortgage program loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements.

4900.0358 SELECTION CRITERIA FOR APARTMENT RENOVATION MORTGAGE PROGRAM LOANS.

In determining whether or not to accept applications for apartment renovation mortgage loans, the agency shall take the following criteria into consideration:

A. whether the location of the structure to be improved is such that it will enable the housing to be successfully marketed at the proposed rents;

B. accessibility to schools, shopping, health care, recreation and social facilities, and centers of employment;

C. availability of a convenient access to public transportation;

D. availability and proximity of adequate sewer and water facilities, public utilities, and paved roads;

E. freedom from serious adverse environmental and site conditions;

F. the extent to which displacement of residents is minimized;

G. rental management qualifications and financial strength of the owner; and

H. reasonableness of property and property-related costs.

Department of Human Services

Proposed Permanent Rules Relating to Implementation of the Consolidated Chemical Dependency Treatment Fund

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Veterans Home, Auditorium/Chapel, Building 15, 5101 Minnehaha Avenue South, Minneapolis, Minnesota 55417 on March 18, 1987, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings,

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Rules Relating to
Apartment Renovation Mortgage Program
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 26th day of March, 1987, 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 Apartment Renovation Mortgage Program 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, Subdivisions 4 and 11 and that James J. Solem, 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 26th day of March, 1987.

Chairman

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Rules Relating to
Apartment Renovation Mortgage Program
Without a Public Hearing

ORDER ADOPTING RULES

Notice of the Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 16, 1987 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 February 13, 1987. 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, supplying notice to all persons requesting notice of the date of submission of the proposed rules to the Attorney General for review, 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 Relating to Apartment Renovation Mortgage Program are adopted this 26th day of March, 1987 pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subdivisions 4 and 11.

James J. Solem, Executive Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Rules Relating to
Apartment Renovation Mortgage Program
Without a Public Hearing

ORDER ADOPTING RULES

Notice of the Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on February 16, 1987 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 February 13, 1987. 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, supplying notice to all persons requesting notice of the date of submission of the proposed rules to the Attorney General for review, 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 Relating to Apartment Renovation Mortgage Program are adopted this 26th day of March, 1987 pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subdivisions 4 and 11.

James J. Solem, Executive Director

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Rules Relating to Apartment Renovation Mortgage Program

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: 3/27/87

Karl J. Herman
Special Assistant Attorney General

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Rules
Relating to Apartment Renovation
Mortgage Program

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

It is ordered this 29th day of January, 1987 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

MAILING LIST CERTIFICATE

In the Matter of the Proposed
Rules Relating to
Apartment Renovation Mortgage Program
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 complete this 13th day of February, 1987.

Kathleen J. Johnson

MINNESOTA HOUSING FINANCE AGENCY

RECEIVED
ATTORNEY GENERAL'S OFFICE
MAR 30 1987

204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

March 27, 1987

Ms. Rita Desmond
Room 204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

RE: In the Matter of the Proposed Rules Relating to Apartment Renovation Mortgage Program Without a Public Hearing

Dear Ms. Desmond:

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 Rule 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

Finding of Fact
Sending
Rita Kathy Johnson 6-9793
Lynn McDaniel 6-9837

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,

James J. Solem
Executive Director

JJS/kjj

Encs.

Rule

ok

Notice of Intent

No small business Statement

462A.06 Subd 4+11 - ok authority