

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA HOUSING FINANCE AGENCY
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998

RESOLUTION NO. MHFA 90-1

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO HOME EQUITY CONVERSION COUNSELING PROGRAM WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Home Equity Conversion Counseling Program is approved and adopted, pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subd. 4 and 11. James J. Solem, the Commissioner of the Minnesota Housing Finance Agency is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this January 25, 1990.

Chairman

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Home Equity
Conversion Counseling Program

DECLARATION
OF COUNSEL

I, William H. Kuretsky, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules,chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0450.

William H. Kuretsky
Special Assistant Attorney General

Dated: January 26, 1990

FILE COPY

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : February 14, 1990

TO : ALAN L. HANS, Deputy Commissioner
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300 (55101)

FROM : MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE : 296-6839

SUBJECT : In the Matter of the Adopted Permanent Rule Relating to Home Equity Conversion Counseling Program

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on February 12, 1990.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

MJC:bbl
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
William Kuretsky " "

FILE COPY

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Home Equity Conversion Counseling Program

Rules as Adopted

4900.2020 SCOPE.

Parts 4900.2020 to 4900.2070 govern the implementation of the home equity conversion counseling program.

4900.2030 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.2020 to 4900.2070, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a grant under the home equity conversion counseling program.

Subp. 4. **Application.** "Application" means a submittal requesting a grant to pay the cost of providing counseling services regarding home equity conversion for senior homeowners.

Subp. 5. **Client.** "Client" means senior homeowners who receive home equity conversion counseling services.

Subp. 6. **Home equity conversion.** "Home equity conversion" means plans where homeowners convert equity in their homes into spendable funds while still retaining title to the homes. The funds do not have an obligation of immediate repayment.

Subp. 7. **Program.** "Program" means the home equity conversion counseling program.

Subp. 8. **Senior homeowners.** "Senior homeowners" means homeowners of whom at least one is 62 years of age, or homeowners as may be defined in home equity conversion programs sponsored or supported by local, state, or federal government and primarily designed for use by senior or elderly homeowners.

4900.2040 HOME EQUITY CONVERSION COUNSELING.

Home equity conversion loan counseling shall be provided under the program for senior homeowners as described in items A and B.

A. The applicant selected to administer the program must, at a minimum, perform the following services:

(1) Conduct a review of home equity conversion programs with the client, and explain the advantage, disadvantage, and alternatives of the programs.

(2) Explain the effects of home equity conversion on the client's estate and public benefits available to the client.

(3) Explain the home equity conversion lending process with the client.

(4) Discuss the client's supplemental income needs and financial alternatives for meeting such needs.

(5) Maintain adequate records pertaining to each client counseled under the program.

(6) Provide the client with adequate documentation of counseling so that the client may meet counseling requirements imposed under various home equity conversion loan programs.

(7) Provide such services and outreach on a statewide basis.

B. The applicant selected to administer the program may charge a reasonable fee to provide counseling services for clients, but the applicant may not deny a client counseling services due to inability to pay the fee.

4900.2050 APPLICANT ELIGIBILITY.

To be eligible for selection as a recipient of a grant under the program, an applicant must satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0010, subpart 21, and must have as its primary purpose assisting elderly persons in obtaining and maintaining affordable housing.

B. The applicant may not be a part of or affiliated with a lender or a vendor of home equity conversion loans or products.

C. The applicant must provide an application in a form prescribed by the agency that will document the applicant's ability to establish or maintain a home equity conversion counseling program for the period of time specified by the agency. At a minimum, this application shall include:

(1) documentation that the applicant meets the eligibility requirements prescribed in items A and B;

(2) a description of the applicant's organization that demonstrates that the applicant:

(a) is knowledgeable about home equity conversion, including reverse mortgage programs;

(b) has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and

(c) has knowledge of existing public benefit programs and other appropriate financial and legal resources for older persons;

(3) a detailed description of how the proposed program would be administered, including qualifications of staff and proposed means of record keeping;

(4) a detailed budget for the specified period showing all sources and uses of funds, including grant funds; and

(5) a description of the means that the applicant plans to use to provide outreach and counseling on a statewide basis.

4900.2060 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an applicant will receive a grant under the program:

A. The prior experience of the applicant in establishing, administering, and maintaining a home equity

conversion counseling program.

B. The documented familiarity of the applicant regarding home equity conversion and alternative financial resources and other services that may be available to assist senior homeowners.

C. The reasonableness of the proposed budget in meeting the objective of the program.

D. The documented ability of the applicant to provide home equity conversion counseling on a statewide basis as well as the location of the applicant in an area of anticipated demand for counseling services.

4900.2070 RECORD KEEPING AND REPORTING.

The applicant selected for the program shall be required to keep adequate records as to each client counseled under the program in a format and fashion mutually agreed to between the applicant and the agency, and the agency may review the records upon adequate prior written notice to the applicant by the agency. The selected applicant must also provide a written report in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, but in no instance more often than quarterly.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 13 1990

Joan Anderson Growe
Secretary of State

1:15 pm

APPROVED AS TO FORM AND LEGALITY
February 12 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

MJC

Check ① ②

RULE REVIEW CHECKLIST

File No. 1664

Docket No. 05-0009.0450

DATE RECEIVED 1-31-~~89~~90

ADOPTED W/O HEARING X

REVIEW DATE 2-9-90

EMERGENCY RULE

DUE DATE 2-14-90

To Revisor ON 2-6-90

REVISOR APPROVED

APPROVED 2-12-90 mjc

REVISOR DISAPPROVED

DISAPPROVED

FILED W/SEC. OF STATE

WITHDRAWN

RETURNED TO AGENCY

---

4 Rule as adopted (4 copies) - only 1 copy X rox 3 more

Notice to Solicit Outside Information/Opinion (if applicable)
- Date published in State Register
- Comments

Petition for Adoption of a Rule (if applicable)

✓ Board's Authorizing Resolution
Sept 28, 1989 Date adopted - missing - give authority to sign notice of Intent

✓ Proposed Rule
- Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 462A.06 Statutory Authority subd 4 and 11
- Small Business Statement
- Expenditure of public money statement
- Dec 15, 1989 Signature

✓ Statement of Need and Reasonableness (if applicable)
- NA Small Business Statement
- NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Dec 15, 1989 Date 30/25 days before adoption
- Notice attached - indicates it is attached
- NO Copy of rule or summary attached

✓ Publication in State Register
Dec 18, 1989 Date 30/25 days before adoption

180-day deadline from: — check Dec 18
- ✓ Effective date of law requiring rule (14.12) (both rules)
- ✓ end of comment period (§ 14.26) (rules without hearing) Jan 18 - Jan 31, 1989
- effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
Jan 25, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Jan 25, 1990 Date

Written requests, submissions or comments

✓ Declaration of attorney
William Kuretsky Name of SAAG representing agency

Notice of Submission to Atty. Gen. (if applicable)

Aff. of Mailing Notice to Atty. Gen. (if applicable)

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

January 31, 1990

Received
1-31-90
PN

Ms. Patricia Nolte, Legal Assistant
Attorney General
Public Finance Division
404 Capitol Office Building
525 Park Street
St. Paul, MN 55155

RE: In the Matter of the Proposed Rule Relating to Home Equity Conversion Counseling Prograı

Dear Ms. Nolte:

Enclosed please find for your review pursuant to Minnesota Statutes, Section 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 2010:

- Rule as Adopted;
- Certificate of Board's Resolution Adopting the Rule;
- Certificate of Agency's Authorizing Resolution;
- Notice of Intent to Adopt a Rule Without a Public Hearing;
- Affidavit of Mailing the Notice of Intent to Adopt a Rule Without a Public Hearing and Certificate of Mailing List;
- Rule as Proposed;
- Rule as published in State Register;
- Findings of Fact, Conclusions and Order Adopting the Rule Without a Public Hearing;
- Statement of Need and Reasonableness; and
- Declaration of Counsel.

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 Commissioner
ALH:tf
Enclosure

400 Sibley Street, Suite 300, St. Paul, Minnesota 55101 (612) 296-7608 Telecopier (612) 296-8139
Equal Opportunity Housing and Equal Opportunity Employment

CERTIFICATE OF THE

MINNESOTA HOUSING FINANCE AGENCY

RESOLUTION ADOPTING THE RULE

I, Robert A. Worthington, do hereby certify that I am a member and the 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 property called and held on the January 25, 1990, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule relating to Home Equity Conversion Counseling Program is approved and adopted, pursuant to authority vested in the Agency by Minnesota Statutes 462A.06, Subd. 4 and 11. James J. Solem, the Commissioner of the Minnesota Housing Finance Agency is authorized to sign the findings of fact, conclusions, and order adopting the rule and further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this January 25, 1990.

Chairman

Attest by one other Board Member

HOME EQUITY CONVERSION COUNSELING PROGRAM

4900.2020 Scope

Parts 4900.2020 to 4900.2070 given the implementation of the home equity conversion counseling program.

4900.2030 Definition

Subpart 1. Agency. "Agency" means the Minnesota Housing Finance Agency.

Subpart 2. Applicant. "Applicant" means one or more entities which submit an application to the agency for a grant under the home equity conversion counseling program.

Subpart 3. Application. "Application means a submittal requesting a grant to pay the cost of providing counseling services regarding home equity conversion for senior homeowners.

Subpart 4. Client. "Client" refers to senior homeowners who receive home equity conversion counseling services.

Subpart 5. Home Equity Conversion. "Home Equity Conversion" refers to plans whereby homeowners may convert equity in their homes into spendable funds while still retaining title to the home. Such funds do not have an obligation of immediate repayment.

Subpart 6. Program. "Program" refers to the home equity conversion counseling program.

Subpart 7. Senior Homeowners. "Senior homeowners" refer to homeowners where at least one of the homeowners is 62 years of age, or homeowners as may be defined in home equity conversion programs sponsored and/or supported by local, state or federal government and primarily designed for use by senior or elderly homeowners.

4900.2040 Home Equity Conversion Counseling

Home equity conversion loan counseling shall be provided under the program for senior homeowners.

A. The applicant selected to administer the program must, at a minimum, perform the following responsibilities:

1. Conduct a review of home equity conversion programs with clients, and explain the advantage, disadvantage, and alternatives of such programs.

2. Explain the effects of home equity conversion on the client's estate and public benefits available to the client.

3. Explain the home equity conversion lending process with clients.

4. Discuss the client's supplemental income needs and financial alternatives for meeting such needs.

5. Maintain adequate records pertaining to each client counseled under the program.

6. Provide clients with adequate documentation to evidence such counseling so that client may meet requirements as may be imposed under various home equity conversion loan programs to enable clients to apply for such programs.

B. The applicant selected to administer the program may charge a reasonable fee to provide counseling services for clients, but no client may be denied counseling services due to inability to pay such fee.

4900.2050 Applicant Eligibility

To be eligible for selection as a recipient of a grant under the program, an applicant must satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0100, subpart 21, which must have as its primary purpose the assistance of elderly persons in obtaining and maintaining affordable housing.

B. The applicant may not be in any way a part or affiliated with a lender or any other vendor of home equity conversion loans and/or products.

C. The applicant must provide an application in a form prescribed by the agency that will document the entity's ability to establish and/or maintain a home equity conversion counseling program for the period of time specified by the agency. At a minimum, this application shall include:

1. documentation that the applicant meets the eligibility requirements prescribed above;

2. a description of the applicant's organization which demonstrate that the applicant

a. is knowledgeable about home equity conversion, including reverse mortgage programs;

b. has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and

c. has knowledge of existing public benefit programs and other appropriate financial and legal resources for older persons.

3. A detailed description of how the proposed program would be administered, including qualifications of staff and proposed means of record keeping.

4. A detailed budget for the specified period showing all sources and uses of funds, including grant funds.

5. A description of the means that the applicant plans to use to provide outreach and counseling on a statewide basis.

4900.2060 Selection Criteria

The agency will take the following criteria into consideration when determining whether an applicant will receive a grant under the program:

A. The prior experience of the applicant in establishing, administering, and maintaining a home equity conversion counseling program.

B. The documented familiarity of the applicant regarding home equity conversion and alternative financial resources and other services that may be available to assist senior homeowners.

C. The reasonableness of the proposed budget in meeting the objective of the program.

D. The documented ability of the applicant to provide home equity conversion counseling on a statewide basis as well as the location of the applicant in an area of anticipated demand for counseling services.

4900.2070 Recordkeeping and Reporting

Any applicant selected for the program shall be required to keep adequate records as to each client counseled under the program in a format and fashion mutually agreed to between the applicant and the agency, and the agency may review such records upon adequate prior written notice to the applicant by the agency. The selected applicant must also provide a written report in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, but in no instance more often than quarterly.

MINNESOTA HOUSING FINANCE AGENCY
400 Sibley Street
St. Paul, Minnesota 55101

RESOLUTION NO. MHFA 89-97

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO HOME EQUITY CONVERSION COUNSELING PROGRAM WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That James J. Solem, Commissioner, of the Minnesota Housing Finance Agency, is hereby granted the authority and directed to sign and to give the Notice of the Minnesota Housing Finance Agency's Intent to Adopt a rule without a public hearing governing the Home Equity Conversion Counseling Program to all persons who have registered their names with the Agency for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of September, 1989.

Chairman

Member

CERTIFICATE OF THE

MINNESOTA HOUSING FINANCE AGENCY

AUTHORIZING RESOLUTION

I, Robert A. Worthington, do hereby certify that I am a member and the 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 of September, 1989, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that James J. Solem, Commissioner of the Minnesota Housing Finance Agency, is hereby granted the authority and directed to sign and to give the Notice of the Minnesota Housing Finance Agency's Intent to Adopt a rule without a public hearing, governing the Home Equity Conversion Counseling Program to all persons who have registered their names with the Agency for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of September, 1989.

Robert A. Worthington
Chairman

Demetrius G. Jelatis
Attest by one other Board Member

authorizing resolution before publishing a notice of intent to adopt a rule without public hearing. The format recommended by the attorney general is contained in Minnesota Rules, part 2010.9910, which is set forth below:

> 2010.9910 RECOMMENDED CERTIFICATE OF AUTHORIZING RESOLUTION FOR RULE WITHOUT A PUBLIC HEARING OR EMERGENCY RULE.
>
> CERTIFICATE OF THE
>
> _____
>
> AUTHORIZING RESOLUTION
>
> I, _____, do hereby certify that I am a member and the _____(office), of the _____ _____, a [board] [commission] 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 _____ duly and properly called and held on the ___ day of _____, 19___, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.
>
> "RESOLVED, that _____, [the executive director] [a member] of the _____, is hereby granted the authority and directed to sign and to give the Notice of the [Board's] [Commission's] Intent to Adopt [a rule without a public hearing] [an Emergency rule] governing _____ (describe nature of the rule) to all persons who have registered their names with the [Board] [Commission] for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."
>
> IN WITNESS WHEREOF, I have hereunto subscribed my name this ___ day of _____, 19___.
>
> _____
> (Officer of the Board)
>
> _____
> Attest by one other Board member

You should submit two copies of your notice of intent and two copies of rules as proposed approved as to form by the revisor to the State Register for publication. You should

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Home Equity Conversion Counseling Program

Rules as Proposed (all new material)

4900.2020 SCOPE.

Parts 4900.2020 to 4900.2070 govern the implementation of the home equity conversion counseling program.

4900.2030 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.2020 to 4900.2070, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a grant under the home equity conversion counseling program.

Subp. 4. **Application.** "Application" means a submittal requesting a grant to pay the cost of providing counseling services regarding home equity conversion for senior homeowners.

Subp. 5. **Client.** "Client" means senior homeowners who receive home equity conversion counseling services.

Subp. 6. **Home equity conversion.** "Home equity conversion" means plans where homeowners convert equity in their homes into spendable funds while still retaining title to the homes. The funds do not have an obligation of immediate repayment.

Subp. 7. **Program.** "Program" means the home equity conversion counseling program.

Subp. 8. **Senior homeowners.** "Senior homeowners" means homeowners of whom at least one is 62 years of age, or homeowners as may be defined in home equity conversion programs sponsored or supported by local, state, or federal government and primarily designed for use by senior or elderly homeowners.

4900.2040 HOME EQUITY CONVERSION COUNSELING.

Approved by Revisor

Home equity conversion loan counseling shall be provided under the program for senior homeowners as described in items A and B.

A. The applicant selected to administer the program must, at a minimum, perform the following services:

(1) Conduct a review of home equity conversion programs with the client, and explain the advantage, disadvantage, and alternatives of the programs.

(2) Explain the effects of home equity conversion on the client's estate and public benefits available to the client.

(3) Explain the home equity conversion lending process with the client.

(4) Discuss the client's supplemental income needs and financial alternatives for meeting such needs.

(5) Maintain adequate records pertaining to each client counseled under the program.

(6) Provide the client with adequate documentation of counseling so that the client may meet counseling requirements imposed under various home equity conversion loan programs.

(7) Provide such services and outreach on a statewide basis.

B. The applicant selected to administer the program may charge a reasonable fee to provide counseling services for clients, but the applicant may not deny a client counseling services due to inability to pay the fee.

4900.2050 APPLICANT ELIGIBILITY.

To be eligible for selection as a recipient of a grant under the program, an applicant must satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0010, subpart 21, and must have as its primary purpose assisting elderly persons in obtaining and maintaining affordable housing.

Approved
by Revisor _____

B. The applicant may not be a part of or affiliated with a lender or a vendor of home equity conversion loans or products.

C. The applicant must provide an application in a form prescribed by the agency that will document the applicant's ability to establish or maintain a home equity conversion counseling program for the period of time specified by the agency. At a minimum, this application shall include:

(1) documentation that the applicant meets the eligibility requirements prescribed in items A and B;

(2) a description of the applicant's organization that demonstrates that the applicant:

(a) is knowledgeable about home equity conversion, including reverse mortgage programs;

(b) has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and

(c) has knowledge of existing public benefit programs and other appropriate financial and legal resources for older persons;

(3) a detailed description of how the proposed program would be administered, including qualifications of staff and proposed means of record keeping;

(4) a detailed budget for the specified period showing all sources and uses of funds, including grant funds; and

(5) a description of the means that the applicant plans to use to provide outreach and counseling on a statewide basis.

4900.2060 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an applicant will receive a grant under the program:

A. The prior experience of the applicant in establishing, administering, and maintaining a home equity

Approved by Revisor _____

conversion counseling program.

B. The documented familiarity of the applicant regarding home equity conversion and alternative financial resources and other services that may be available to assist senior homeowners.

C. The reasonableness of the proposed budget in meeting the objective of the program.

D. The documented ability of the applicant to provide home equity conversion counseling on a statewide basis as well as the location of the applicant in an area of anticipated demand for counseling services.

4900.2070 RECORD KEEPING AND REPORTING.

The applicant selected for the program shall be required to keep adequate records as to each client counseled under the program in a format and fashion mutually agreed to between the applicant and the agency, and the agency may review the records upon adequate prior written notice to the applicant by the agency. The selected applicant must also provide a written report in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, but in no instance more often than quarterly.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Home Equity Conversion Counseling Program

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Home Equity Conversion Counseling Program

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on December 18, 1989 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 1a and 14.22 on December 15, 1989. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the Agency.

(7) No submissions or comments on the rule were received by the Agency. No requests for notice of submission to the attorney general were received by the Agency.

Based on the comments and evidence in the record before the Agency, I find the following:

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 4900.2020 to 4900.2070 is adopted this January 25, (9) 1990, pursuant to authority vested in the Agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

(9)

James J. Solem, Commissioner

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Adoption of the Rule of
the Minnesota Housing Finance Agency
Governing the Home Equity
Conversion Counseling Program

NOTICE OF
INTENT TO
ADOPT A RULE
WIITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 462A.06, Subd. 4 and 11.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) 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. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9794

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Date: December 15, 1989

James J. Solem
Commissioner

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Home Equity Conversion Counseling Program

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Susan K. Noren, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Housing Finance Agency rulemaking mailing list is accurate, complete, and current as of this 15th day of December, 1989.

That on the 15th day of December, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the United States mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Susan K. Noren

Susan K. Noren
Office Services Supervisor

Subscribed and sworn to before
me this 15th day of December, 1989.

Diane Skelly-Bauleke

Notary Public

DIANE SKELLY-BAULEKE
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires 2-24-94

On the _____ day of _____, 19____, at _____ o'clock ____
A.M. ____ P.M. in _____
Name _____ Address Home _____
Birth Date _____ Age ____ Business _____
Location of Offense _____
Did commit the following offense _____
_____
_____
_____
_____
In violation of (Statute, Rule, or Ordinance) _____
Against the peace and dignity of the State of Minnesota. The undersigned further states that the Board's representative had probable cause to believe, and does believe, that the person named above committed the offense described in this citation.
Court Appearance _____ day of _____ 19____, at _____ ____A.M. ____
P.M. in Division _____
I promise to appear in said Court
at said time and at said place.

_____
Address of Court _____
_____

_____
Signature of Complainant
Area Electrical
Representative

Date _____

AN ARREST WARRANT WILL BE
ISSUED IF YOU FAIL TO APPEAR

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Home Equity Conversion Counseling Program

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, Subd. 4 and 11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. 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. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: (612) 296-9794

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.

The proposed rule may be submitted if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of this proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Susan K. Noren upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General or who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Dated: 15 December 1989

James J. Solem
Commissioner

Rules as Proposed (all new material)

4900.2020 SCOPE

Parts 4900.2020 to 4900.2070 govern the implementation of the home equity conversion counseling program.

4900.2030 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.2020 to 4900.2070, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a grant under the home equity conversion counseling program.

Subp. 4. **Application.** "Application" means a submittal requesting a grant to pay the cost of providing counseling services regarding home equity conversion for senior homeowners.

Subp. 5. **Client.** "Client" means senior homeowners who receive home equity conversion counseling services.

Subp. 6. **Home equity conversion.** "Home equity conversion" means plans where homeowners convert equity in their homes into spendable funds while still retaining title to the homes. The funds do not have an obligation of immediate repayment.

Subp. 7. **Program.** "Program" means the home equity conversion counseling program.

Subp. 8. **Senior homeowners.** "Senior homeowners" means homeowners of whom at least one is 62 years of age, or homeowners as may be defined in home equity conversion programs sponsored or supported by local, state, or federal government and primarily designed for use by senior or elderly homeowners.

4900.2040 HOME EQUITY CONVERSION COUNSELING.

Home equity conversion loan counseling shall be provided under the program for senior homeowners as described in items A and B.

A. The applicant selected to administer the program must, at a minimum, perform the following services:

(1) Conduct a review of home equity conversion programs with the client, and explain the advantage, disadvantage, and alternatives of the programs.

(2) Explain the effects of home equity conversion on the client's estate and public benefits available to the client.

(3) Explain the home equity conversion lending process with the client.

(4) Discuss the client's supplemental income needs and financial alternatives for meeting such needs.

(5) Maintain adequate records pertaining to each client counseled under the program.

(6) Provide the client with adequate documentation of counseling so that the client may meet counseling requirements imposed under various home equity conversion loan programs.

(7) Provide such services and outreach on a statewide basis.

B. The applicant selected to administer the program may charge a reasonable fee to provide counseling services for clients, but the applicant may not deny a client counseling services due to inability to pay the fee.

4900.2050 APPLICANT ELIGIBILITY.

To be eligible for selection as a recipient of a grant under the program, an applicant must satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0010, subpart 21, and must have as its primary purpose assisting elderly persons in obtaining and maintaining affordable housing.

B. The applicant may not be a part of or affiliated with a lender or a vendor of home equity conversion loans or products.

C. The applicant must provide an application in a form described by the agency that will document the applicant's ability to establish or maintain a home equity conversion counseling program for the period of time specified by the agency. At a minimum, this application shall include:

(1) documentation that the applicant meets the eligibility requirements prescribed in items A and B;

(2) a description of the applicant's organization that demonstrates that the applicant:

(a) is knowledgeable about home equity conversion, including reverse mortgage programs;

(b) has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and

(c) has knowledge of existing public benefit programs and other appropriate financial and legal resources for older persons;

(3) a detailed description of how the proposed program would be administered, including qualifications of staff and proposed means of record keeping;

(4) a detailed budget for the specified period showing all sources and uses of funds, including grant funds; and

(5) a description of the means that the applicant plans to use to provide outreach and counseling on a statewide basis.

4900.2060 SELECTION CRITERIA.

The agency shall take the following criteria into consideration when determining whether an applicant will receive a grant under the program:

A. The prior experience of the applicant in establishing, administering, and maintaining a home equity conversion counseling program.

B. The documented familiarity of the applicant regarding home equity conversion and alternative financial resources and other services that may be available to assist senior homeowners.

C. The reasonableness of the proposed budget in meeting the objective of the program.

D. The documented ability of the applicant to provide home equity conversion counseling on a statewide basis as well as the location of the applicant in an area of anticipated demand for counseling services.

4900.2070 RECORD KEEPING AND REPORTING.

The applicant selected for the program shall be required to keep adequate records as to each client counseled under the program in a format and fashion mutually agreed to between the applicant and the agency, and the agency may review the records upon adequate prior written notice to the applicant by the agency. The selected applicant must also provide a written report in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, but in no instance more often than quarterly.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

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State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to Home Equity Conversion
Counseling Program

Statement of Need and Reasonableness

4900.2020 through 4900.2070:

Minnesota Statutes, Section 462A.28, Subdivisions 1 and 2 establishes that The Minnesota Housing Finance Agency (Agency) shall select and contract with a nonprofit organization to administer a home equity conversion loan counseling program for senior homeowners. This law was passed in anticipation of the development and growth of home equity conversion programs and, specifically, the implementation of a demonstration program through the United States Department of Housing and Urban Development (HUD) for such loans and the passage of legislation authorizing the Agency to develop such programs. An appropriation of $50,000 was provided to fund this program. The proposed rule has been developed under the above-referenced statute.

Proposed Minnesota Rules 4900.2030, subparts 1 through 7 provide definitions under these rules. Particular note should be taken of the definitions provided in subpart 5 and subpart 7. Under subpart 5, home equity conversion was defined to preclude standard home equity loan programs found at financial institutions to meet the more limited intent of the legislation regarding home equity conversion programs as are being developed for senior homeowners. In subpart 7, "senior homeowners" is defined to include homeowners that would be eligible for both HUD and the state programs, but flexibility is provided so that other government sponsored or supported programs which may define senior homeowners differently may be included under these rules.

Proposed Minnesota Rules 4900.2040 describes home equity conversion counseling. Most of the material provided therein was derived directly from the statute. However, recordkeeping and documentation requirements were imposed both to assure that senior homeowners may receive the materials which they need to apply for home equity conversion loan programs and so that the actual performance of the grant recipient under the program may be monitored or audited by the Agency. This rule also anticipates that grant proceeds may not be sufficient to pay all the costs of providing counseling services and allows for the charging of a reasonable fee for clients under the program, but it also provides that no client may be denied access to counseling due to inability to pay such a fee.

Proposed Minnesota Rule 4900.2050 describes the eligibility standards for applicants that wish to apply for a grant under the program. As above, most of the eligibility requirements were taken directly from the statute. Additional "standard" requirements

pertaining to a description of the program and the providing of a budget was also incorporated under these rules. However, two other items should also be noted.

First, it may be noted that the applicant may not be in any way a part of or affiliated with a lender or any other vendor of home equity conversion loans and/or products to receive a grant under this program. It is felt that an entity that provides home equity conversion products would be, by its very nature, unable to provide impartial counseling services. Thus, such potential applicants were precluded from applying under these rules.

Second, it may be noted that the applicant must provide a description of the means that it plans to use to provide outreach and counseling on a state-wide basis. This rule implies that only one applicant shall be selected for the program, which is further implied both under the legislative history of this statute, the statutory language, and by the amount of appropriations that were provided for providing such services.

Proposed Minnesota Rule 4900.2060 provides for the selection criteria of the applicant under this program. It may be noted that the selection criteria refers back to the eligibility criteria.

Proposed Minnesota Rule 4900.2070 provides for recordkeeping and reporting requirements under the program. This rule was included so that the Agency may receive periodic reports as to activity under the program and may have access to information if it is deemed appropriate to audit the grant recipient.

The Agency is cognizant of the provisions of section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking. The proposed rules do not establish any compliance or reporting requirements, or design of operational standards that directly affect the way any business must operate. Therefore, the provisions contained in Minnesota Statutes 14.115 (1986) do not apply to the proposed rules discussed herein.

462A.06 sub 4 and 11
subd 4

The agency shall have the powers granted in this section - it may make, and form from time to time amend and repeal rules not inconsistent

subd 11 It may make and publish rules pursuant to chapter 14 respecting its mortgage lending construction lending

Statement of Need and Reasonableness very poor
doesn't state why the rule is reasonable You have to assume the rule is needed because of MN stat 462A.28 subd 1 and 2 which establishes that the agency should contract with a non profit agency to profit counseling to seniors for conversion of loans to seniors - should have stated why the rules are needed

Findings of Fact
Findings indicate that no comments were received and another statement indicates that "based on the comments and evidence before the agency

Rules
4900.2070
state applicant must submit a written request in a prescribed format - what prescribed

format

Effective date - no date listed so Aug 1, 1989

Aug 1, 1989 - Dec 18, 1989

less than 180 days