

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : March 14, 1990

TO : JAMES J. SOLEM, Commissioner
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 Housing Preservation Program

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on March 13, 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 " "

MJC

RULE REVIEW CHECKLIST

File No. 1677

DATE RECEIVED 2-28-90

REVIEW DATE 3-9-90

DUE DATE 3-14-90

APPROVED 3.13-90 mjc

DISAPPROVED

WITHDRAWN

Docket No. 05.0009.0450

ADOPTED W/O HEARING X

EMERGENCY RULE

To Revisor 2-28-90

REVISOR APPROVED 3-7-90

REVISOR DISAPPROVED

FILED W/SEC. OF STATE

RETURNED TO AGENCY

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4 Rule as adopted (4 copies)

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 missing must call Rec 3-8-90 PN
- Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 462A.06 4 and 11 Statutory Authority
- Small Business Statement
- Expenditure of public money statement
- Jan 5, 1990 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Jan 5, 1990 Date 30/25 days before adoption
- ✓ Notice attached
- Copy of rule or summary attached

✓ Publication in State Register
- Jan 5, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
- NA Effective date of law requiring rule not mandatory (14.12) (both rules)
- ✓ end of comment period (§ 14.26) (rules without hearing)
- effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
- Feb 22, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- Feb 22, 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)

3-5-90 Left a message for Sue Noren told he we did not the authorizing resolution

Housing Finance Agency

Adopted Permanent Rules Relating to Housing Preservation Program

Rules as Adopted

4900.0010 DEFINITIONS.

[For text of subps 1 to 22, see M.R. 1989]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

[For text of items A to E, see M.R. 1989]

F. With respect to the Housing Preservation Program under parts 4900.2200 to 4900.2270, persons and families whose gross annual income does not exceed 100 percent of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

HOUSING PRESERVATION PROGRAM

4900.2200 SCOPE.

Parts 4900.2200 to 4900.2270 govern implementation of the Housing Preservation Program established by Minnesota Statutes, section 462A.203.

4900.2210 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 4900.2200 to 4900.2270, the following terms have the meanings given them in this part.

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

Subp. 3. **City.** "City" has the meaning given in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 4. **Eligible borrower.** "Eligible borrower" means:

A. eligible mortgagors as defined in Minnesota Statutes, section 462A.03, subdivision 13; or

B. noneligible mortgagors who are natural persons or families whose gross annual household income is greater than 100

percent, but no greater than 110 percent, of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

Subp. 5. **Housing Preservation Program.** "Housing Preservation Program" means the program administered under parts 4900.2200 to 4900.2270.

Subp. 6. **Revolving loan.** "Revolving loan" means an extension of credit to an eligible borrower requiring repayment of all principal at some future date, with or without interest, for the acquisition, improvement, or rehabilitation of residential buildings for the purpose of preserving eligible housing.

Subp. 7. **Target area.** "Target area" is the area described in Minnesota Statutes, section 462A.203, subdivision 2.

4900.2220 PROGRAM PURPOSE.

The agency shall make grants to cities to establish revolving loan programs that will operate in target areas. Loan recipients shall use the revolving loans for housing acquisition, improvement, or rehabilitation.

4900.2230 LOAN TERMS.

Cities shall make loans with terms appropriate for the type of building and useful life of improvements, unless conditions documented by a city require more liberal terms as incentive for owner participation.

4900.2240 TARGET AREAS.

Target areas shall be designated by city council resolution. Changes in a target area's boundaries must also be designated by city council resolution and approved by the agency.

4900.2250 MATCHING FUNDS.

A grant made under the Housing Preservation Program must be equally matched by city commitment of one or more of the following resources:

A. money from the general fund or a special fund;

B. funds paid or repaid to the community from other grant awards;

C. funds to install, repair, or improve target area infrastructure;

D. fees from community development activities;

E. financial contributions to support general obligation or revenue bonds issued for the Housing Preservation Program, or a project connected with the program; or

F. the greater of market value or cost to the city of land, buildings, equipment, or other real or personal property granted or loaned to a for-profit or nonprofit corporation or other entity or individual for use in implementing the program.

4900.2260 ADVISORY COMMITTEE.

Before making any loans, a city must establish an advisory committee to assist in implementing the program. The city shall determine this committee's composition and responsibilities.

4900.2270 GRANT PROPOSAL SELECTION.

From time to time the agency may request proposals for grants from cities and shall receive proposals for at least 60 days. Only one target area may be included in each proposal submitted, but a city may submit proposals for more than one target area.

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A. the extent of substandard or hazardous housing conditions in the target area, the impact the program will have in reducing or eliminating them;

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C. adequacy of documentation, including that required to establish target area eligibility;

D. revolving loan fund characteristics, and the extent to which proposed lending activities do not duplicate available agency programs that are adequately funded;

E. administrative capabilities of the city or the

entity that will administer the program on behalf of the city; and

F. the geographic area to be serviced, the size of grant request or other factors, to the end that a reasonable distribution of resources can be achieved across the state.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 14 1990

Joan Anderson Growe

Secretary of State

3:12 PM

APPROVED AS TO FORM AND LEGALITY

March 13 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy

SPECIAL ASSISTANT ATTORNEY GENERAL

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

March 6, 1990

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

Re: Housing Preservation Program Proposed Rule

Dear Ms. Nolte:

Pursuant to your request I have enclosed a copy of the Agency's Authorizing Resolution.

If you need further assistance call me at 296-9794.

Sincerely,

Susan K. Noren

Susan K. Noren
Office Services Supervisor
Legal Division

SKN
Enc.

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

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 26th day of October, 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 Housing Preservation 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 26th day of October, 1989.

Robert A. Worthington
Chairman

Sheila Van Dyck
Attest by one other Board Member

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

RESOLUTION NO. MHFA 90-6

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO HOUSING PRESERVATION PROGRAM WITHOUT A PUBLIC HEARING

That the rule relating to Housing Preservation 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 22nd day of February, 1990.

Chairman

Housing Finance Agency

Adopted Permanent Rules Relating to Housing Preservation Program

Rules as Adopted

4900.0010 DEFINITIONS.

[For text of subps 1 to 22, see M.R. 1989]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

[For text of items A to E, see M.R. 1989]

F. With respect to the Housing Preservation Program under parts 4900.2200 to 4900.2270, persons and families whose gross annual income does not exceed 100 percent of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

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Subp. 6. **Revolving loan.** "Revolving loan" means an extension of credit to an eligible borrower requiring repayment of all principal at some future date, with or without interest, for the acquisition, improvement, or rehabilitation of residential buildings for the purpose of preserving eligible housing.

Subp. 7. **Target area.** "Target area" is the area described in Minnesota Statutes, section 462A.203, subdivision 2.

4900.2220 PROGRAM PURPOSE.

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4900.2230 LOAN TERMS.

Cities shall make loans with terms appropriate for the type of building and useful life of improvements, unless conditions documented by a city require more liberal terms as incentive for owner participation.

4900.2240 TARGET AREAS.

Target areas shall be designated by city council resolution. Changes in a target area's boundaries must also be designated by city council resolution and approved by the agency.

4900.2250 MATCHING FUNDS.

A grant made under the Housing Preservation Program must be equally matched by city commitment of one or more of the following resources:

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B. funds paid or repaid to the community from other grant awards;

C. funds to install, repair, or improve target area infrastructure;

D. fees from community development activities;

E. financial contributions to support general obligation or revenue bonds issued for the Housing Preservation Program, or a project connected with the program; or

F. the greater of market value or cost to the city of land, buildings, equipment, or other real or personal property granted or loaned to a for-profit or nonprofit corporation or other entity or individual for use in implementing the program.

4900.2260 ADVISORY COMMITTEE.

Before making any loans, a city must establish an advisory committee to assist in implementing the program. The city shall determine this committee's composition and responsibilities.

4900.2270 GRANT PROPOSAL SELECTION.

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B. the extent to which displacement of low and moderate income tenants will be minimized;

C. adequacy of documentation, including that required to establish target area eligibility;

D. revolving loan fund characteristics, and the extent to which proposed lending activities do not duplicate available agency programs that are adequately funded;

E. administrative capabilities of the city or the

entity that will administer the program on behalf of the city; and

F. the geographic area to be serviced, the size of grant request or other factors, to the end that a reasonable distribution of resources can be achieved across the state.

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 22nd day of February, 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 Housing Preservation 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 22nd day of February, 1990.

Robert A. Worthington
Chairman

Attest by one other Board member

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

February 26, 1990

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

RE: In the Matter of the Proposed Rule Relating to Housing Preservation Program

Dear Ms. Nolte:

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 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,

James J. Solem
Commissioner

JJS:skn
Encs.

Stat authority 462A.06 Subd 4 and 11

subd 4 Agency may make and ... rules not inconsistant with 462A.01 to 462A.24

subd 11 It may make and publish rules pursuant to chapter 14, respecting its mortgage lending ... and any such other rules as are necessary to effectuate its corporate purpose.

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to the Housing Preservation
Program.

Statement of Need and Reasonableness

Minnesota Statues Section 462A.203, Subdivisions 1-4 (1989) authorize the Minnesota Housing Finance Agency to establish a program for making housing preservation grants to cities. These rules are proposed to direct program implementation.

Proposed Rule 4900.0010, Subpart 23.F. defines low and moderate income to be 100% of the area median family income, as defined by the United States Department of Housing and Urban Development (HUD).

A definition of low and moderate income is necessary for the purpose of identifying eligible mortgagors, which is one type of eligible borrower under this program.

The definition is reasonable as a means for ensuring that moderate income persons and families without the resources of higher income individuals will benefit from the program.

Proposed Rule 4900.2210, Subparts 1-7 provides necessary definitions.

Subpart 1 is necessary to identify the parts of the rules for which the definitions in this part are applicable.

Subpart 2 identifies the Minnesota Housing Finance Agency as the program administrator.

Subpart 3 defines "city," which is identified in Subdivision 1 of the legislation as the eligible grant applicant. This language is now a definition in Agency enabling legislation by action of the 1989 Legislature.

Subpart 4 is necessary to define who may be eligible to receive revolving loans made with grant funds. The rule is reasonable because the statute specifically limits the amount of dollars that may be loaned to noneligible mortgagors to 25% of the grant amount awarded to a city. Because a borrower may only be either an eligible mortgagor or a noneligible mortgagor, it is reasonable that eligible mortgagors be borrowers in the program.

The limitation of noneligible mortgagors to natural persons is reasonable because the statute limited noneligible mortgagors to those with incomes not exceeding 110 percent of the area median income. While not explicit in the statute, area median income is believed to be the area median income established by HUD, which is personal income and not the income of some other entity, such as a corporation, which may be considered a noneligible mortgagor.

Subpart 5 is necessary to identify the parts of the rules which apply to the program.

Subpart 6 clarifies the requirement from Subdivision 1 of the legislation that state grant funds must be used by cities to establish "revolving loan" programs. A revolving loan is interpreted as requiring full payback at some point, meaning that loans partially or totally forgiven in a grantlike manner cannot be made.

Subpart 7 defines target area as those areas meeting the condition described in 462A.203 Subdivision 2.

Proposed Rule 4900.2220 sets out program purpose. Subdivision 1 of the legislation requires that preservation grants must be made to cities for establishing revolving loan programs for the acquisition, improvement or rehabilitation of residential buildings. Subdivision 2 of the legislation requires that a program must operate in a location documented and designated by city council as meeting the target area definition.

Proposed Rule 4900.2230 is necessary to ensure to the greatest extent possible that loans will be repaid and, therefore, funds revolved to achieve the maximum effect possible in the target area. It is a reasonable lending practice to require that loan terms match building and improvement type.

Proposed Rule 4900.2240 is necessary to comply with the requirement that target areas be designated by city council resolution. Because target areas must be designated by city council resolution, it is reasonable to require that changes in a target area also be designated by city council resolution. It is reasonable that MHFA approve changes in target areas because MHFA would have approved the original target area in the grant application process.

Proposed Rule 4900.2250 sets out the terms from Subdivision 3 of the legislation for program match requirements and categories of eligible resources.

Proposed Rule 4900.2260 sets out the requirement from Subdivision 4 of the legislation that before any loans are made, an advisory committee must be in place to assist in program implementation. Cities have been given the flexibility to determine this group's membership and responsibilities.

Proposed Rule 4900.2270 sets out the type of guidelines the Agency will use in evaluating and awarding preservation grants. All of the review criteria listed reflect either legislative requirements, practical management standards, or procedures needed to award funds equitably around the state.

The Agency is cognizant of the provisions of Section 14.115 of Minnesota Statutes, entitled Small Business Considerations in Rulemaking. To the extent that the loan funds directly benefit the low and moderate income occupants in structures within the Agency's Program, the statute is inapplicable. To the extent that the funds may inure to the benefit of small businesses, the proposed rules do not establish any compliance or reporting requirements, design or operational standards not mandated by the federal government, and the effect of the Agency's Program in making the loan funds available is to make decent, safe, and sanitary housing affordable primarily for low and moderate income persons and, as a consequence, the proposed regulations have no negative effect on small businesses.

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Housing Preservation Program

NOTICE OF INTENT TO ADOPT A RULE WITHOUT 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: January 5, 1990

James J. Solem
Commissioner

Housing Finance Agency

Proposed Permanent Rules Relating to Housing Preservation Program

Rules as Proposed

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Approved by Revisor

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Approved by Revisor _____

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Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Housing Preservation Program

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Housing Preservation 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)

Julie A. Maloney, 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 5th day of January, 1990

That on the 5th day of January, 1990, 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.

Julie A. Maloney
Julie A. Maloney
Clerk Typist 4/Supervisor

Subscribed and sworn to before
me this 5th day of January, 1990.

Susan K. Noren
Notary Public

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

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. **that they have 30 days in which to submit comment on the proposed rules;**
2. **that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;**
3. **of the manner in which persons shall request a hearing on the proposed rules; and**
4. **that the rule may be modified if the modifications are supported by the data and views submitted.**

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency

Proposed Permanent Rules Relating to Housing Preservation 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 change 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
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998
Telephone: (612) 296-9794

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.

A copy of the 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

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.

General or who wish to receive a copy of the adopted rule. must submit the written request to Susan K. Noren.

Dated: 5 January 1990

James J. Solem
Commissioner

Rules as Proposed

4900.0010 DEFINITIONS.

[For text of subps 1 to 22, see M.R. 1989]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

[For text of items A to E, see M.R. 1989]

F. With respect to the Housing Preservation Program under parts 4900.2200 to 4900.2270, persons and families whose gross annual income does not exceed 100 percent of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

HOUSING PRESERVATION PROGRAM

4900.2200 SCOPE.

Parts 4900.2200 to 4900.2270 govern implementation of the Housing Preservation Program established by Minnesota Statutes, section 462A.203.

4900.2210 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 4900.2200 to 4900.2270, the following terms have the meanings given them in this part.

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

Subp. 3. **City.** "City" has the meaning given in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 4. **Eligible borrower.** "Eligible borrower" means:

A. eligible mortgagors as defined in Minnesota Statutes, section 462A.03, subdivision 13; or

B. noneligible mortgagors who are natural persons or families whose gross annual household income is greater than 100 percent, but no greater than 110 percent, of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

Subp. 5. **Housing Preservation Program.** "Housing Preservation Program" means the program administered under parts 4900.2200 to 4900.2270.

Subp. 6. **Revolving loan.** "Revolving loan" means an extension of credit to an eligible borrower requiring repayment of all principal at some future date, with or without interest, for the acquisition, improvement, or rehabilitation of residential buildings for the purpose of preserving eligible housing.

Subp. 7. **Target area.** "Target area" is the area described in Minnesota Statutes, section 462A.203, subdivision 2.

4900.2220 PROGRAM PURPOSE.

The agency shall make grants to cities to establish revolving loan programs that will operate in target areas. Loan recipients shall use the revolving loans for housing acquisition, improvement, or rehabilitation.

4900.2230 LOAN TERMS.

Cities shall make loans with terms appropriate for the type of building and useful life of improvements, unless conditions documented by a city require more liberal terms as incentive for owner participation.

4900.2240 TARGET AREAS.

Target areas shall be designated by city council resolution. Changes in a target area's boundaries must also be designated by city council resolution and approved by the agency.

4900.2250 MATCHING FUNDS.

A grant made under the Housing Preservation Program must be equally matched by city commitment of one or more of the following resources:

A. money from the general fund or a special fund;

B. funds paid or repaid to the community from other grant awards;

C. funds to install, repair, or improve target area infrastructure;

D. fees from community development activities;

E. financial contributions to support general obligation or revenue bonds issued for the Housing Preservation Program, or a project connected with the program; or

F. the greater of market value or cost to the city of land, buildings, equipment, or other real or personal property granted or loaned to a for-profit or nonprofit corporation or other entity or individual for use in implementing the program.

4900.2260 ADVISORY COMMITTEE.

Before making any loans, a city must establish an advisory committee to assist in implementing the program. The city shall determine this committee's composition and responsibilities.

4900.2270 GRANT PROPOSAL SELECTION.

From time to time the agency may request proposals for grants from cities and shall receive proposals for at least 60 days. Only one target area may be included in each proposal submitted, but a city may submit proposals for more than one target area.

The agency shall select grant proposals for funding based on the following factors:

A. the extent of substandard or hazardous housing conditions in the target area, the impact the program will have in reducing or eliminating them;

B. the extent to which displacement of low and moderate income tenants will be minimized;

C. adequacy of documentation, including that required to establish target area eligibility;

D. revolving loan fund characteristics, and the extent to which proposed lending activities do not duplicate available agency programs that are adequately funded;

E. administrative capabilities of the city or the entity that will administer the program on behalf of the city; and

F. the geographic area to be serviced, the size of grant request or other factors, to the end that a reasonable distribution of resources can be achieved across the state.

Housing Finance Agency

Proposed Permanent Rules Relating to Neighborhood Preservation Home Improvement Loans

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 change 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

KEY: **PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Housing Preservation 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 January 8, 1990 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on January 8, 1990. (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.

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

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 4900.2200-4900.2270 is adopted this 22nd day of February, 1990, pursuant to authority vested in the Agency by Minnesota Statutes, sections 462A.06 Subd. 4 and 11.

(9)

James J. Solem, Commissioner

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency Governing
the Housing Preservation 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: February 22, 1990

Housing Finance Agency

Proposed Permanent Rules Relating to Housing Preservation Program

Rules as Proposed

4900.0010 DEFINITIONS.

[For text of subps 1 to 22, see M.R. 1989]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

[For text of items A to E, see M.R. 1989]

F. With respect to the Housing Preservation Program under parts 4900.2200 to 4900.2270, persons and families whose gross annual income does not exceed 100 percent of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

HOUSING PRESERVATION PROGRAM

4900.2200 SCOPE.

Parts 4900.2200 to 4900.2270 govern implementation of the Housing Preservation Program established by Minnesota Statutes, section 462A.203.

4900.2210 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 4900.2200 to 4900.2270, the following terms have the meanings given them in this part.

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B. noneligible mortgagors who are natural persons or

Approved by Revisor

families whose gross annual household income is greater than 100 percent, but no greater than 110 percent, of the median family income for the county in which the target area is located, as determined from time to time by the United States Department of Housing and Urban Development.

Subp. 5. **Housing Preservation Program.** "Housing Preservation Program" means the program administered under parts 4900.2200 to 4900.2270.

Subp. 6. **Revolving loan.** "Revolving loan" means an extension of credit to an eligible borrower requiring repayment of all principal at some future date, with or without interest, for the acquisition, improvement, or rehabilitation of residential buildings for the purpose of preserving eligible housing.

Subp. 7. **Target area.** "Target area" is the area described in Minnesota Statutes, section 462A.203, subdivision 2.

4900.2220 PROGRAM PURPOSE.

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4900.2230 LOAN TERMS.

Cities shall make loans with terms appropriate for the type of building and useful life of improvements, unless conditions documented by a city require more liberal terms as incentive for owner participation.

4900.2240 TARGET AREAS.

Target areas shall be designated by city council resolution. Changes in a target area's boundaries must also be designated by city council resolution and approved by the agency.

4900.2250 MATCHING FUNDS.

A grant made under the Housing Preservation Program must be equally matched by city commitment of one or more of the following resources:

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A. money from the general fund or a special fund;

B. funds paid or repaid to the community from other grant awards;

C. funds to install, repair, or improve target area infrastructure;

D. fees from community development activities;

E. financial contributions to support general obligation or revenue bonds issued for the Housing Preservation Program, or a project connected with the program; or

F. the greater of market value or cost to the city of land, buildings, equipment, or other real or personal property granted or loaned to a for-profit or nonprofit corporation or other entity or individual for use in implementing the program.

4900.2260 ADVISORY COMMITTEE.

Before making any loans, a city must establish an advisory committee to assist in implementing the program. The city shall determine this committee's composition and responsibilities.

4900.2270 GRANT PROPOSAL SELECTION.

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B. the extent to which displacement of low and moderate income tenants will be minimized;

C. adequacy of documentation, including that required to establish target area eligibility;

D. revolving loan fund characteristics, and the extent to which proposed lending activities do not duplicate available agency programs that are adequately funded;

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E. administrative capabilities of the city or the entity that will administer the program on behalf of the city; and

F. the geographic area to be serviced, the size of grant request or other factors, to the end that a reasonable distribution of resources can be achieved across the state.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Housing Preservation Program

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor