

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

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SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : March 26, 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 : 296-9422

SUBJECT : In the Matter of the Adopted Permanent Rule
Relating to Home Ownership Assistance Fund

The above-referenced Permanent rule has been approved as to its legality by the Attorney General on March 22, 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 whimjc 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 " "

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Rural and Urban Homesteading

Rules as Adopted

RURAL AND URBAN HOMESTEADING PROGRAM

4900.2400 SCOPE.

Parts 4900.2400 to 4900.2600 govern the implementation of the rural and urban homesteading program under Minnesota Statutes, section 462A.057.

4900.2420 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.2400 to 4900.2600 have the meanings given them in this part.

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 rural and urban homesteading program.

Subp. 4. **Application.** "Application" means a submittal requesting a grant of funds under the rural and urban homesteading program.

Subp. 5. **At-risk homebuyer.** "At-risk homebuyer" means an individual or family who is homeless, receiving public assistance, or would otherwise be unable to afford homeownership through sources other than the program pursuant to criteria or standards as established by the eligible organization and accepted by the agency.

Subp. 6. **Designated area.** "Designated area" means a specific area where the acquisition, rehabilitation, and sale of eligible properties may take place under the program. In the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2, a designated area must be a specific four square block area.

Subp. 7. **Eligible organization.** "Eligible organization" means an applicant that has been selected to receive a grant

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under the rural and urban homesteading program.

Subp. 8. **Eligible property.** "Eligible property" means a single family ~~detached~~ residential property, located within a designated area, that is vacant, condemned, abandoned, or identified as desirable for purchase and rehabilitation by the eligible organization for appropriate reasons cited by the eligible organization which, if rehabilitated, may prevent or arrest the spread of blight.

Subp. 9. **Good neighbor policy.** "Good neighbor policy" means a set of standards developed by the applicant pertaining to community behavior or housing maintenance that homebuyers under the program must agree to meet or observe.

Subp. 10. **Initial acquisition cost.** "Initial acquisition cost" means the actual costs incurred in acquiring and rehabilitating an eligible property under the program and includes back taxes and closing costs.

Subp. 11. **Local neighborhood advisory board or advisory board.** "Local neighborhood advisory board" or "advisory board" means a volunteer board established by the eligible organization in accordance with parts 4900.2400 to 4900.2600.

Subp. 12. **Program.** "Program" means the rural and urban homesteading program administered under parts 4900.2400 to 4900.2600.

Subp. 13. **Sales cost.** "Sales cost" means the actual cost and the imputed value of costs incurred in the acquisition and sale of an eligible property, except that the imputed value costs may be limited so that sale costs do not exceed the maximum allowed under the program.

4900.2440 THE RURAL AND URBAN HOMESTEADING PROGRAM.

Subpart 1. **Purpose of program.** The rural and urban homesteading program provides grants to eligible organizations to acquire and rehabilitate existing single family ~~detached~~ residences and sell them through contracts for deed to eligible homebuyers who are considered to be at risk and are willing to strengthen the neighborhood by adhering to a good neighbor

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policy reference.

Subp. 2. **Uses of grant money.** The agency may award grants to eligible organizations of up to $300,000. The grants must be used by eligible organizations to buy eligible properties and pay for the cost of rehabilitating those properties. The agency may establish an allocation plan for the program to provide for the greater likelihood of awarding such grants among rural and urban properties. The agency may also establish requirements pertaining to maximum allowable administrative costs under the program, but in no instance may the administrative costs exceed $30,000 per eligible organization from funds appropriated for the program during the period of acquisition, rehabilitation, and sale.

4900.2460 APPLICATION BY ELIGIBLE ORGANIZATION.

Subpart 1. **Preliminary eligibility.** The applicant must be a political subdivision, or a nonprofit entity as defined in part ~~4900.0100~~ 4900.0010, subpart 21, that has as a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

Subp. 2. **Application.** The applicant must provide an application on a form prescribed by the agency that will document the entity's ability to develop and maintain the program as provided under parts 4900.2400 to 4900.2600. At a minimum, this application shall include:

A. documentation that the applicant meets the eligibility requirements in subpart 1;

B. a description of the applicant's organization that demonstrates that the applicant:

(1) has experience in acquisition and rehabilitation of housing for low and moderate income homebuyers; and

(2) has the ability to organize and complete the program;

C. a detailed description of how the applicant proposes to develop and administer the program, including, but

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not limited to:

(1) the designated area in which the program is to be delivered and the availability of eligible properties on reasonable terms and conditions within the designated area;

(2) a definition and description of the at-risk homebuyers to whom the applicant proposes to sell eligible property under the program;

(3) a definition and description of the good neighbor policy to which the at-risk homebuyers must adhere;

(4) the structure and specific duties of the local neighborhood advisory board as described in parts 4900.2400 to 4900.2600;

(5) the standard to which properties under the program will be acquired and rehabilitated;

(6) the means by which outreach for at-risk homebuyers will be undertaken, and by which such homebuyers will be selected;

(7) the qualifications of staff; and

(8) proposed means of record keeping; and

D. a detailed budget for the program showing all sources and uses of funds, including administrative funds that may be provided from sources other than the grant.

4900.2480 SELECTION OF ELIGIBLE ORGANIZATION.

Subpart 1. **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 affordable housing programs for low and moderate income households.

B. The prior experience of the applicant in purchasing and rehabilitating residential property for resale or rental.

C. The documented availability on reasonable terms and conditions of both eligible properties and resources through which the properties may be rehabilitated within the designated

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area identified by the applicant in the application.

D. The reasonableness of the program as developed by the applicant.

E. The availability of outside sources of funds for either administrative costs or to provide for purchase, rehabilitation, and sale of properties under the program, or both.

F. The reasonableness of the proposed budget in meeting the objectives of the program.

G. The capacity of the applicant to:

(1) organize and continue an ongoing relationship with the local neighborhood advisory board;

(2) provide the necessary staff to administer the program on the local level for an extended period;

(3) assist homebuyers by linking them with service providers to enhance their possibility of successful homeownership; and

(4) the ability to service the contract for deed and manage the revolving fund created under the program.

Subp. 2. **Agency may provide assistance.** Nothing in subpart 1 shall be construed to preclude the agency from conducting outreach, encouraging potentially eligible organizations to develop applications, or contacting or interviewing applicants regarding their applications before application selection.

4900.2500 LOCAL NEIGHBORHOOD ADVISORY BOARD.

Subpart 1. **Establishment of advisory board.** A local neighborhood advisory board for each designated area in which the program is delivered shall be established by the eligible organization. Except for the requirements in this part, the eligible organization shall be granted flexibility in determining the structure and specific duties of the advisory board. The advisory board shall be comprised of volunteer residents from the designated area.

Subp. 2. **Racial composition.** Wherever possible, residents

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selected to serve on the advisory board must reflect the racial composition of the designated area. Within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, at least 20 percent of the advisory board must be minority residents. The eligible organization must undertake adequate outreach within each designated area to achieve such racial composition. If, despite such outreach, the eligible organization is unable to obtain such racial composition, the eligible organization must demonstrate to the satisfaction of the agency that a reasonable effort was made to do so.

Subp. 3. **Required duties.** The duties of the advisory board include, but are not limited to, the following:

A. recommending properties that may be acquired within the designated area to the eligible organization;

B. recommending the selection of eligible homebuyers to the organization; and

C. assisting the eligible organization in providing ongoing assistance to eligible homebuyers.

4900.2520 ELIGIBLE PROPERTIES.

Subpart 1. **General.** Eligible properties are to be acquired by the eligible organization for rehabilitation and sale to at-risk homebuyers with the consent of the local neighborhood advisory board for the designated area. The eligible organization may <u>initially</u> acquire up to five properties in a designated area with funds appropriated for the program or may acquire more than five properties if funds other than appropriated funds are used. Mobile homes, townhomes <u>in planned unit developments</u>, and condominium units are not eligible under the program. Upon sale of the property, clear and marketable title subject to the contract for deed described in part 4900.2560 must be provided to the homebuyer.

Subp. 2. **Rehabilitation standards.** Eligible properties are to be rehabilitated, at a minimum, to the Housing Quality Standards as established in Code of Federal Regulations, title 24, section 882.404, and changed from time to time by the United

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States Department of Housing and Urban Development. Applicants may provide for rehabilitation of properties beyond Housing Quality Standards where it is feasible, and are encouraged to do so. All rehabilitation work must also satisfy the following requirements:

A. Rehabilitation improvements may be made in order to comply with applicable state, county, and municipal health, housing, building, fire prevention, and housing maintenance codes, or other public standards applicable to housing; make the property more desirable to live in; increase the market value of the property; make the property more habitable; make the property more accessible to a handicapped person; or make the property more energy efficient.

B. Each rehabilitation improvement must be a permanent general improvement. Permanent general improvements include additions, alterations, renovations, or repairs upon or in connection with existing structures that materially preserve or improve the basic livability, safety, or utility of the property. Permanent general improvements do not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Each rehabilitation improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards; provided, however, that no requirement may be imposed under the program that will preclude rehabilitation solely because the improvements will not bring the property into full compliance with all codes and standards.

Subp. 3. **Appraisal.** Eligible properties must be appraised before the beginning of rehabilitation work by an appraiser approved to conduct appraisal for the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation. The appraiser shall be informed as to the proposed improvements so that the value of the eligible property after

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rehabilitation may be estimated. The purchase price for the eligible property to be paid by the at-risk homebuyer must be less than or equal to 125 percent of the appraised value of the eligible property after rehabilitation.

Subp. 4. **Acquisition costs.** The total initial acquisition cost of the property may not exceed $50,000 unless costs over $50,000 are attributed to rehabilitation or improvement to make the property accessible for the physically disabled. The sales cost of the property may also not exceed $50,000 unless sales cost over $50,000 are attributed to rehabilitation or improvement to make the property accessible for the physically disabled.

4900.2540 ELIGIBLE HOMEBUYERS.

An individual or family eligible to purchase a home under the program must be an at-risk homebuyer as described in part 4900.2420, subpart 5, and must also:

A. not have owned a residential dwelling for the three years before the date of execution of the contract for deed;

B. have household income before the date of execution of the contract for deed at or below limits established by the eligible organization, but in no instance may such income limits be established at a level higher than 70 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development;

C. have sufficient gross household income so that on the date of execution of the contract for deed at least 25 percent of that income will be adequate to pay monthly installments of real estate taxes and hazard insurance premiums; and

D. agree to apply 25 percent of their gross monthly household income to the debt incurred under the contract for deed, immediately inform the eligible organization of significant changes in gross household income, and cooperate and

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participate in annual recertification of gross household income by the eligible organization.

4900.2560 CONTRACT FOR DEED.

The agency shall establish the terms and conditions for the contract for deed to be used to convey the rehabilitated property from the eligible organization to the at-risk homebuyer. The terms and conditions shall reflect state law pertaining to such documents, the requirements of Minnesota Statutes, section 462A.07, and parts 4900.2400 to 4900.2600 pertaining to the program, specific requirements of the program as implemented by the eligible organization, and provisions pertaining to the right of first refusal by the eligible organization or the agency upon property resale as prescribed in Minnesota Statutes, section 462A.07.

4900.2580 REVOLVING FUND.

The eligible organization shall repay to the agency, without interest, all grant funds advanced to it under the agreement executed for the program to the extent and manner provided in the agreement. The agreement shall provide for establishment of a revolving fund into which all loan repayments, sales proceeds, or recaptured funds must be repaid. The revolving fund shall provide that repayment to the agency may be deferred if the eligible organization elects to acquire, rehabilitate, and sell additional eligible properties under the program. The agency may also provide for payment of certain administrative and other costs from the revolving fund, and may establish other requirements pertaining to the revolving fund under the agreements with the eligible organization.

4900.2600 RECORD KEEPING AND REPORTING.

Subpart 1. **Record keeping.** The eligible organization shall be required to keep adequate records pertaining to the program in a format and fashion mutually agreed to between the eligible organization and agency, and the agency or legislative auditor may review such records upon adequate prior written

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notice to the eligible organization by the agency or the legislative auditor. The eligible organization must also provide written reports in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, which typically will be no more often than quarterly.

Subp. 2. **Report to legislature.** The agency is responsible for preparing and submitting annual reports to the legislature and the governor as prescribed in Minnesota Statutes, section 462A.057, subdivision 10.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

APR 19 1990

Joan Anderson Growe
Secretary of State

1:15 pm

APPROVED AS TO FORM AND LEGALITY
April 19 19 90
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M T Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

Housing Finance Agency

STATE OF MINNESOTA

Office Memorandum

Date: April 18, 1990

To: Patricia Nolte
Attorney General's Office

From: Terese Fritchman

Phone: 6-8837

Subject: Rural and Urban Homesteading Rules

The Rural and Urban Homesteading Rules were originally forwarded to the Attorney General's Office on March 8, 1990. The original information included a copy of the Findings of Fact. In the Findings of Fact, it was noted that there were comments filed regarding the rules and that minor nonsubstantive changes needed to be made.

Also in the packet of information that was sent to the Attorney General's was a copy of the Adopted Rules from the Revisor's Office. However, this copy of the Adopted Rules did not have the changes noted in the Findings of Fact. Subsequently the Revisor's Office was made aware of the changes that needed to be made to the Rule, were made and a "revised" copy of the Adopted Rules was forwarded to the Attorney General's Office.

As a result, the Attorney General's Office will have to file this Rule with the Secretary of State's Office twice.

If you should have any questions, please don't hesitate to call.

HFA

MJC

RULE REVIEW CHECKLIST

File No. 1681

Docket No. 05.0009.0450

DATE RECEIVED 3-8-90

ADOPTED W/O HEARING X

REVIEW DATE ~~3-14-90~~ 3-17-90

EMERGENCY RULE _____

DUE DATE 3-22-90

To Revisor: 3-17-90

REVISOR APPROVED 3-15-90

APPROVED 3-22-90

REVISOR DISAPPROVED _____

DISAPPROVED _____

FILED W/SEC. OF STATE 3-26-90

WITHDRAWN _____

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
- Nov 16, 1989 Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

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

_____ Statement of Need and Reasonableness (if applicable)
- _____ Small Business Statement
- _____ 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 8, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules) - check
- ✓ 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
- March 8, 90 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
- Kunkley Name of SAAG representing agency

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

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

AG copy # 1681

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Rural and Urban Homesteading

Rules as Adopted

RURAL AND URBAN HOMESTEADING PROGRAM

4900.2400 SCOPE.

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Subpart 1. **Scope.** The terms used in parts 4900.2400 to 4900.2600 have the meanings given them in this part.

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Subp. 4. **Application.** "Application" means a submittal requesting a grant of funds under the rural and urban homesteading program.

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Subp. 6. **Designated area.** "Designated area" means a specific area where the acquisition, rehabilitation, and sale of eligible properties may take place under the program. In the metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2, a designated area must be a specific four square block area.

Subp. 7. **Eligible organization.** "Eligible organization" means an applicant that has been selected to receive a grant

under the rural and urban homesteading program.

Subp. 8. **Eligible property.** "Eligible property" means a single family detached residential property, located within a designated area, that is vacant, condemned, abandoned, or identified as desirable for purchase and rehabilitation by the eligible organization for appropriate reasons cited by the eligible organization which, if rehabilitated, may prevent or arrest the spread of blight.

Subp. 9. **Good neighbor policy.** "Good neighbor policy" means a set of standards developed by the applicant pertaining to community behavior or housing maintenance that homebuyers under the program must agree to meet or observe.

Subp. 10. **Initial acquisition cost.** "Initial acquisition cost" means the actual costs incurred in acquiring and rehabilitating an eligible property under the program and includes back taxes and closing costs.

Subp. 11. **Local neighborhood advisory board or advisory board.** "Local neighborhood advisory board" or "advisory board" means a volunteer board established by the eligible organization in accordance with parts 4900.2400 to 4900.2600.

Subp. 12. **Program.** "Program" means the rural and urban homesteading program administered under parts 4900.2400 to 4900.2600.

Subp. 13. **Sales cost.** "Sales cost" means the actual cost and the imputed value of costs incurred in the acquisition and sale of an eligible property, except that the imputed value costs may be limited so that sale costs do not exceed the maximum allowed under the program.

4900.2440 THE RURAL AND URBAN HOMESTEADING PROGRAM.

Subpart 1. **Purpose of program.** The rural and urban homesteading program provides grants to eligible organizations to acquire and rehabilitate existing single family detached residences and sell them through contracts for deed to eligible homebuyers who are considered to be at risk and are willing to strengthen the neighborhood by adhering to a good neighbor

policy reference.

Subp. 2. **Uses of grant money.** The agency may award grants to eligible organizations of up to $300,000. The grants must be used by eligible organizations to buy eligible properties and pay for the cost of rehabilitating those properties. The agency may establish an allocation plan for the program to provide for the greater likelihood of awarding such grants among rural and urban properties. The agency may also establish requirements pertaining to maximum allowable administrative costs under the program, but in no instance may the administrative costs exceed $30,000 per eligible organization from funds appropriated for the program during the period of acquisition, rehabilitation, and sale.

4900.2460 APPLICATION BY ELIGIBLE ORGANIZATION.

Subpart 1. **Preliminary eligibility.** The applicant must be a political subdivision, or a nonprofit entity as defined in part 4900.0100, subpart 21, that has as a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

Subp. 2. **Application.** The applicant must provide an application on a form prescribed by the agency that will document the entity's ability to develop and maintain the program as provided under parts 4900.2400 to 4900.2600. At a minimum, this application shall include:

A. documentation that the applicant meets the eligibility requirements in subpart 1;

B. a description of the applicant's organization that demonstrates that the applicant:

(1) has experience in acquisition and rehabilitation of housing for low and moderate income homebuyers; and

(2) has the ability to organize and complete the program;

C. a detailed description of how the applicant proposes to develop and administer the program, including, but

not limited to:

(1) the designated area in which the program is to be delivered and the availability of eligible properties on reasonable terms and conditions within the designated area;

(2) a definition and description of the at-risk homebuyers to whom the applicant proposes to sell eligible property under the program;

(3) a definition and description of the good neighbor policy to which the at-risk homebuyers must adhere;

(4) the structure and specific duties of the local neighborhood advisory board as described in parts 4900.2400 to 4900.2600;

(5) the standard to which properties under the program will be acquired and rehabilitated;

(6) the means by which outreach for at-risk homebuyers will be undertaken, and by which such homebuyers will be selected;

(7) the qualifications of staff; and

(8) proposed means of record keeping; and

D. a detailed budget for the program showing all sources and uses of funds, including administrative funds that may be provided from sources other than the grant.

4900.2480 SELECTION OF ELIGIBLE ORGANIZATION.

Subpart 1. **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 affordable housing programs for low and moderate income households.

B. The prior experience of the applicant in purchasing and rehabilitating residential property for resale or rental.

C. The documented availability on reasonable terms and conditions of both eligible properties and resources through which the properties may be rehabilitated within the designated

area identified by the applicant in the application.

D. The reasonableness of the program as developed by the applicant.

E. The availability of outside sources of funds for either administrative costs or to provide for purchase, rehabilitation, and sale of properties under the program, or both.

F. The reasonableness of the proposed budget in meeting the objectives of the program.

G. The capacity of the applicant to:

(1) organize and continue an ongoing relationship with the local neighborhood advisory board;

(2) provide the necessary staff to administer the program on the local level for an extended period;

(3) assist homebuyers by linking them with service providers to enhance their possibility of successful homeownership; and

(4) the ability to service the contract for deed and manage the revolving fund created under the program.

Subp. 2. **Agency may provide assistance.** Nothing in subpart 1 shall be construed to preclude the agency from conducting outreach, encouraging potentially eligible organizations to develop applications, or contacting or interviewing applicants regarding their applications before application selection.

4900.2500 LOCAL NEIGHBORHOOD ADVISORY BOARD.

Subpart 1. **Establishment of advisory board.** A local neighborhood advisory board for each designated area in which the program is delivered shall be established by the eligible organization. Except for the requirements in this part, the eligible organization shall be granted flexibility in determining the structure and specific duties of the advisory board. The advisory board shall be comprised of volunteer residents from the designated area.

Subp. 2. **Racial composition.** Wherever possible, residents

selected to serve on the advisory board must reflect the racial composition of the designated area. Within the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, at least 20 percent of the advisory board must be minority residents. The eligible organization must undertake adequate outreach within each designated area to achieve such racial composition. If, despite such outreach, the eligible organization is unable to obtain such racial composition, the eligible organization must demonstrate to the satisfaction of the agency that a reasonable effort was made to do so.

Subp. 3. **Required duties.** The duties of the advisory board include, but are not limited to, the following:

A. recommending properties that may be acquired within the designated area to the eligible organization;

B. recommending the selection of eligible homebuyers to the organization; and

C. assisting the eligible organization in providing ongoing assistance to eligible homebuyers.

4900.2520 ELIGIBLE PROPERTIES.

Subpart 1. **General.** Eligible properties are to be acquired by the eligible organization for rehabilitation and sale to at-risk homebuyers with the consent of the local neighborhood advisory board for the designated area. The eligible organization may acquire up to five properties in a designated area with funds appropriated for the program or may acquire more than five properties if funds other than appropriated funds are used. Mobile homes, townhomes, and condominium units are not eligible under the program. Upon sale of the property, clear and marketable title subject to the contract for deed described in part 4900.2560 must be provided to the homebuyer.

Subp. 2. **Rehabilitation standards.** Eligible properties are to be rehabilitated, at a minimum, to the Housing Quality Standards as established in Code of Federal Regulations, title 24, section 882.404, and changed from time to time by the United

States Department of Housing and Urban Development. Applicants may provide for rehabilitation of properties beyond Housing Quality Standards where it is feasible, and are encouraged to do so. All rehabilitation work must also satisfy the following requirements:

A. Rehabilitation improvements may be made in order to comply with applicable state, county, and municipal health, housing, building, fire prevention, and housing maintenance codes, or other public standards applicable to housing; make the property more desirable to live in; increase the market value of the property; make the property more habitable; make the property more accessible to a handicapped person; or make the property more energy efficient.

B. Each rehabilitation improvement must be a permanent general improvement. Permanent general improvements include additions, alterations, renovations, or repairs upon or in connection with existing structures that materially preserve or improve the basic livability, safety, or utility of the property. Permanent general improvements do not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Each rehabilitation improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards; provided, however, that no requirement may be imposed under the program that will preclude rehabilitation solely because the improvements will not bring the property into full compliance with all codes and standards.

Subp. 3. Appraisal. Eligible properties must be appraised before the beginning of rehabilitation work by an appraiser approved to conduct appraisal for the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation. The appraiser shall be informed as to the proposed improvements so that the value of the eligible property after

rehabilitation may be estimated. The purchase price for the eligible property to be paid by the at-risk homebuyer must be less than or equal to 125 percent of the appraised value of the eligible property after rehabilitation.

Subp. 4. **Acquisition costs.** The total initial acquisition cost of the property may not exceed $50,000 unless costs over $50,000 are attributed to rehabilitation or improvement to make the property accessible for the physically disabled. The sales cost of the property may also not exceed $50,000 unless sales cost over $50,000 are attributed to rehabilitation or improvement to make the property accessible for the physically disabled.

4900.2540 ELIGIBLE HOMEBUYERS.

An individual or family eligible to purchase a home under the program must be an at-risk homebuyer as described in part 4900.2420, subpart 5, and must also:

A. not have owned a residential dwelling for the three years before the date of execution of the contract for deed;

B. have household income before the date of execution of the contract for deed at or below limits established by the eligible organization, but in no instance may such income limits be established at a level higher than 70 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development;

C. have sufficient gross household income so that on the date of execution of the contract for deed at least 25 percent of that income will be adequate to pay monthly installments of real estate taxes and hazard insurance premiums; and

D. agree to apply 25 percent of their gross monthly household income to the debt incurred under the contract for deed, immediately inform the eligible organization of significant changes in gross household income, and cooperate and

participate in annual recertification of gross household income by the eligible organization.

4900.2560 CONTRACT FOR DEED.

The agency shall establish the terms and conditions for the contract for deed to be used to convey the rehabilitated property from the eligible organization to the at-risk homebuyer. The terms and conditions shall reflect state law pertaining to such documents, the requirements of Minnesota Statutes, section 462A.07, and parts 4900.2400 to 4900.2600 pertaining to the program, specific requirements of the program as implemented by the eligible organization, and provisions pertaining to the right of first refusal by the eligible organization or the agency upon property resale as prescribed in Minnesota Statutes, section 462A.07.

4900.2580 REVOLVING FUND.

The eligible organization shall repay to the agency, without interest, all grant funds advanced to it under the agreement executed for the program to the extent and manner provided in the agreement. The agreement shall provide for establishment of a revolving fund into which all loan repayments, sales proceeds, or recaptured funds must be repaid. The revolving fund shall provide that repayment to the agency may be deferred if the eligible organization elects to acquire, rehabilitate, and sell additional eligible properties under the program. The agency may also provide for payment of certain administrative and other costs from the revolving fund, and may establish other requirements pertaining to the revolving fund under the agreements with the eligible organization.

4900.2600 RECORD KEEPING AND REPORTING.

Subpart 1. Record keeping. The eligible organization shall be required to keep adequate records pertaining to the program in a format and fashion mutually agreed to between the eligible organization and agency, and the agency or legislative auditor may review such records upon adequate prior written

notice to the eligible organization by the agency or the legislative auditor. The eligible organization must also provide written reports in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, which typically will be no more often than quarterly.

Subp. 2. **Report to legislature.** The agency is responsible for preparing and submitting annual reports to the legislature and the governor as prescribed in Minnesota Statutes, section 462A.057, subdivision 10.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAR 2 : 1990
Secretary of State

APPROVED AS TO FORM AND LEGALITY.

Mar 22 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 26 1990

Joan Anderson Growe
Secretary of State

11:45 am

Stat authority
462A.06 subd 4 and 11

(4) It may make, and from time to time amend and repeal rules not inconsistant with the provisions of sections 462A.01 to 462A.24

(11) It may make and publish rules pursuant to chapter 14 respecting its mortgage lending, construction lending etc.

Conclusions of Law - no statement that the rule was needed and reasonable K (8)

Change
Added adjusted income
do not think it is substantial

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

March 8, 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 Homeownership Assistance Fund

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 receive two comments during the 30 day comment period, however the Agency did not 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

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

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Home Ownership Assistance Fund

Rules as Adopted

HOME OWNERSHIP ASSISTANCE FUND

4900.1300 SCOPE.

Parts 4900.1300 to 4900.1390 govern the home ownership assistance fund.

4900.1315 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.1300 to 4900.1390 have the meanings given them in this part.

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

Subp. 3. **Entry costs.** "Entry costs" means the financial requirements other than first mortgage loan proceeds needed to purchase residential real property, including required down payment, closing costs, mortgage insurance premium, origination fee, and other costs and expenses.

Subp. 4. **First mortgage loan.** "First mortgage loan" means a real estate loan that has priority over all other voluntary liens against certain real property.

Subp. 5. **Mortgage revenue bonds.** "Mortgage revenue bonds" means tax-exempt bonds issued by public entities payable from revenues derived from repayment of principal and interest on mortgage loans that were financed from the proceeds of the bonds.

Subp. 6. **Participation interest.** "Participation interest" means a percentage or specified monetary interest in a first mortgage loan that is shared by more than one lender.

Subp. 7. **Principal residence.** "Principal residence" means the primary, year-round domicile of the recipient. A residence that is primarily used in a trade or business, as an investment property, or a recreational home is not a principal residence.

Subp. 8. **Purchase price.** "Purchase price" means the

contract price paid or payable by the buyer to the seller for the purchase of a property covered by a first mortgage loan.

Subp. 9. **Recipient.** "Recipient" means a person or household receiving home ownership assistance fund loans as described in part 4900.1375, subparts 2 to 8.

Subp. 10. **Single head of household.** "Single head of household" means an adult who is 18 years of age or older and is the parent, guardian, or legal custodian of one or more minor children under 18 years of age living in the home of the parent, guardian, or legal custodian.

4900.1331 HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Purpose of program.** The home ownership assistance fund is established to assist persons and families of low and moderate income as specified in part 4900.1345, subpart 2, in the purchase of affordable housing according to parts 4900.1300 to 4900.1390. Toward this end, the agency may provide assistance directly to home buyers, may use funds to provide additional security for eligible loans, and may provide additional security for bonds issued by the agency.

Subp. 2. **Use of fund; general.** Home ownership assistance fund money may only be used in conjunction with first mortgage loans made or purchased by the agency. However, within this limitation, money may be combined with funds from outside sources, including funds from other federal, state, and local government agencies or instrumentalities, private foundations, mortgage insuring entities, the Federal Housing Finance Board, or other public or private sources.

Subp. 3. **Fund recapture.** Home ownership assistance must provide for a reasonable likelihood of recapturing the money for later use. Home ownership assistance fund money under part 4900.1375, subparts 2 to 9, must be secured by a lien on the property being purchased with an appropriate repayment schedule. A repayment provision under part 4900.1375, subparts 2 to 8, must take into consideration potential income growth of recipients and the percentage of income that recipients may

reasonably dedicate toward mortgage payments under mortgage industry accepted underwriting standards.

Subp. 4. **Default.** A home ownership assistance fund loan under part 4900.1375, subparts 2 to 8, is in default if the recipient defaults in the timely observance and performance of a condition or covenant of the first mortgage loan or of the home ownership assistance fund loan, or sells, assigns, rents, or transfers the property, whether by deed, contract for deed, or otherwise. A transfer of the property to a surviving joint tenant, if any, by reason of the death of the recipient does not constitute a default.

In the event of default, the home ownership assistance fund loan is immediately due and payable in its entirety, at the option of the agency, and is subject to interest from the date of default until the date of payment at the same rate of interest as the first mortgage loan on the property.

4900.1345 RECIPIENTS HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Three-year requirement.** In cases in which home ownership assistance fund money is to be used in conjunction with mortgage revenue bond funds, each recipient of home ownership assistance fund money under part 4900.1375, subparts 2 to 7, must not have had an ownership interest in a principal residence for three years before the date of receipt of home ownership assistance fund money. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 7, in conjunction with funds other than mortgage revenue bond funds, the three-year requirement also applies, except that recipients who are single heads of households who have sold a principal residence as a result of a marriage dissolution decree or who have been displaced through government action or natural disaster are exempt from the requirement.

Subp. 2. **Income limits.** In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond

funds, the maximum income for a recipient of home ownership assistance fund money must not exceed 60 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with funds other than mortgage revenue bond funds, the maximum income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

4900.1359 ELIGIBLE PROPERTY.

To qualify as an eligible property, the property being purchased with the assistance of a home ownership assistance fund loan must be a newly constructed or existing single-family residential dwelling located within the state. At the time the property is purchased, the property must be totally completed, in good repair, and meet mortgage industry accepted underwriting standards, or provisions must be made to assure that these standards will be met.

4900.1375 USE OF HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Scope.** The home ownership assistance fund may be used for the purposes specified in this part and within the limitations specified.

Subp. 2. **Monthly assistance.** The agency may provide recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on mortgage loans for eligible properties. The payment must not exceed $160 per month, and must be reduced annually.

Subp. 3. **Entry cost assistance.** The agency may provide interest-free loans to recipients who are determined, on the basis of normal credit procedures, to lack the financial resources necessary to pay entry costs on the property to be purchased. The amount of the entry cost assistance loan must

equal (1) the maximum allowable under the applicable mortgage insurance program; or (2) the lesser of 50 percent of the entry costs or $3,500 if the maximum allowable under clause (1) exceeds this amount. Entry cost assistance may be used to pay a portion of the entry costs on the property to be purchased that are customary within the mortgage industry.

Subp. 4. **Noninterest participation loans.** The agency may take an interest-free participation interest in a first mortgage loan on an eligible property to reduce the interest rate on the mortgage note executed by recipients to affordable levels. The maximum interest rate reduction that the agency may effect on a first mortgage through a participation interest is two percent.

Subp. 5. **Equity participation loan.** The agency may provide equity participation loans to recipients in which a share of the equity proportionate to the agency's share of the equity participation loan shall be repaid to the agency upon sale of the property. The maximum equity participation loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 6. **Buydown loans.** The agency may provide an interest-free loan to buy down the interest rate on a first mortgage on an eligible property to enable increased recipient affordability. The maximum amount that a mortgage interest rate may be permanently bought down is 1.5 percent. The maximum amount that a mortgage interest rate may be temporarily bought down is three percent, and the amount of the interest rate buydown may not be reduced to a level that exceeds one percent per year.

Subp. 7. **Equity contribution loans.** The agency may provide interest-free equity contribution loans on an eligible property to enable a recipient to afford to purchase a home. The maximum equity contribution loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 8. **Emergency mortgage assistance.** The agency may provide interest-free emergency mortgage assistance loans or

mortgage reinstatement loans for recipients who own and occupy an eligible property and who have been unable to make mortgage payments due to unemployment, medical reasons, death of a mortgagor, or other valid, substantiated reasons; are at least 60 days behind in monthly payments on a first or second residential mortgage; and have reasonable prospects for maintaining a first or second mortgage after receiving such a loan. Recipients must have established an acceptable credit rating before requesting assistance under this subpart and be ineligible for mortgage assistance from any federal government program. Loans may provide for installment of principal, interest, real estate taxes, hazard or flood insurance, mortgage insurance premiums, and homeowners association dues. A maximum of 24 months of assistance may be provided.

Subp. 9. **Construction or rehabilitation loans.** The agency may make or participate in construction or rehabilitation loans to nonprofit entities as defined in part 4900.0010, subpart 21, for the construction or rehabilitation of housing designed for program recipients. The maximum loan may not exceed the "average area purchase price safe harbor limitations for single family residences" as provided and adjusted from time to time by the United States Department of Housing and Urban Development under section 103(a) of the Internal Revenue Code of 1986. The minimum interest rate for loans under this part must not be less than three percent per year and the maximum term of the loan must not exceed three years. The loans shall be provided primarily in circumstances in which the agency is implementing efforts or programs to aid in disposition of government real estate assets or in specific neighborhood revitalization efforts. The loans may be made in conjunction with other subsidies from public or private sources. The agency shall impose requirements customarily used within the mortgage industry to effect repayment of loans provided under this part.

Subp. 10. **Coinsurance and mortgage insurance risk sharing agreements.** The agency may provide for coinsurance or risk sharing pools to facilitate the availability of agency mortgage

financing programs in cooperation with either government mortgage insuring or guaranteeing entities, or with private mortgage insurance entities licensed to do business in the state and maintaining an A2 rating from Moody's Investor's Service and AA from Standard and Poors Corporation. The fund must be limited to provide for mortgage insurance services for first mortgage loans with loan-to-value ratios in excess of 90 percent in areas of the state in which mortgage insurance services are unavailable on reasonable terms and conditions. The agency may not contribute more than five percent of the original principal amount for each loan to be coinsured under the pool, and may not pay more than 50 percent of the losses incurred on a claim for a defaulted mortgage loan subject to the pool.

4900.1390 LIMITS ON HOME OWNERSHIP ASSISTANCE.

The agency may further limit the amount of home ownership assistance fund money provided under part 4900.1375, subparts 2 to 8, to provide that recipients do not receive assistance beyond the amount necessary to make home ownership affordable under mortgage industry accepted underwriting standards. Among the factors that the agency must consider in limiting the amount of assistance shall be the interest rate on the first mortgage loans, the percentage of recipient income that may reasonably be spent on housing payments, the availability of funds from other sources to combine with the home ownership assistance fund, the resources available under the home ownership assistance fund, and general housing and construction costs in the state.

REPEALER. Minnesota Rules, parts 4900.1310, 4900.1320, 4900.1330, 4900.1340, 4900.1350, 4900.1360, 4900.1361, and 4900.1362, are repealed.

APPROVED AS TO LEGALITY

March 22, 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene W. Hatch
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 26 1990

Joan Anderson Growe
Secretary of State

11:45 a.m.

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 21st day of December, 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 Homeownership Assistance Fund 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 21st day of December, 1989.

Chairman

Attest by one other Board Member

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

RESOLUTION NO. MHFA 89-152

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO HOMEOWNERSHIP ASSISTANCE FUND 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 Homeownership Assistance Fund 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 21st day of December, 1989.

Chairman

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 Homeownership Assistance Fund 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

Attest by one other Board Member

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

RESOLUTION NO. MHFA 90-12

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO HOMEOWNERSHIP ASSISTANCE FUND WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Homeownership Assistance Fund 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

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Homeownership Assistance Fund

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 section 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 of subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the prosed 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, section 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
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998
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 date 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 of who wish to receive a copy of the adopted rule, must submit the written request to Susan K. Noren.

Date: January 19, 1990

James J. Solem
Commissioner

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 Homeownership Assistance Fund	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 22, 1990 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 January 19, 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.

(3) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) The Agency received no requests for a public hearing on the rule, but did receive two comments from the public regarding the rule. Therefore, the Agency did not receive request for a public hearing from 25 or more persons.

(7) No requests for notice of submission to the attorney general were received by the Agency.

(6) Based on the comments in the record before the Agency, I find that the two comments suggest an appropriate modification to the rule as originally published. The Homeownership Assistance Fund is primarily leveraged with the Agency's mortgage revenue bond programs, which calculate borrowers income on an "adjusted income" basis. Calculating HAF borrower income differently would be inconsistent and administratively burdensome. The intent of the rule was to maintain program consistency. Therefore, the following change is proposed:

Minnesota Rules 4900.1345

Subpart 2. Income limits. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond funds, the maximum <u>adjusted</u> income for a recipient of home ownership assistance fund money must not exceed 60 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with fund other than mortgage revenue bond funds, the maximum <u>adjusted</u> income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. <u>For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.</u> (Emphasis added to specify change).

This change is consistent with the intent of the Agency under the rule and, thus, is not considered a substantial change to the rule.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 4900.1300 - 4900.1390 is adopted this 8th day of March, 1990, pursuant to authority vested in the Agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

no needed and reasonable

James J. Solem, Commissioner

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Homeownership Assistance Fund

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

State of Minnesota }
County of Ramsey } ss.

Fran Gustafson, 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 January 19, 1990.

That on the January 19, 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.

Fran Gustafson
Fran Gustafson

Subscribed and sworn to before me this January 19, 1990.

Mary Hieb
Notary Public

MARY HIEB
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCTOBER 29, 1995

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Home Ownership Assistance Fund

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Housing Financing 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 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*, section 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 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: 19 January 1990

James J. Solem
Commissioner

Rules as Proposed (all new material)

HOME OWNERSHIP ASSISTANCE FUND

4900.1300 SCOPE.

Parts 4900.1300 to 4900.1390 govern the home ownership assistance fund.

4900.1315 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.1300 to 4900.1390 have the meanings given them in this part.

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

Subp. 3. **Entry costs.** "Entry costs" means the financial requirements other than first mortgage loan proceeds needed to purchase residential real property, including required down payment, closing costs, mortgage insurance premium, origination fee, and other costs and expenses.

Subp. 4. **First mortgage loan.** "First mortgage loan" means a real estate loan that has priority over all other voluntary liens against certain real property.

Subp. 5. **Mortgage revenue bonds.** "Mortgage revenue bonds" means tax-exempt bonds issued by public entities payable from revenues derived from repayment of principal and interest on mortgage loans that were financed from the proceeds of the bonds.

Subp. 6. **Participation interest.** "Participation interest" means a percentage or specified monetary interest in a first mortgage loan that is shared by more than one lender.

Subp. 7. **Principal residence.** "Principal residence" means the primary, year-round domicile of the recipient. A residence that is primarily used in a trade or business, as an investment property, or a recreational home is not a principal residence.

Subp. 8. **Purchase price.** "Purchase price" means the contract price paid or payable by the buyer to the seller for the purchase of a property covered by a first mortgage loan.

Subp. 9. **Recipient.** "Recipient" means a person or household receiving home ownership assistance fund loans as described in part 4900.1375, subparts 2 to 8.

Subp. 10. **Single head of household.** "Single head of household" means an adult who is 18 years of age or older and is the parent, guardian, or legal custodian of one or more minor children under 18 years of age living in the home of the parent, guardian, or legal custodian.

4900.1331 HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Purpose of program.** The home ownership assistance fund is established to assist persons and families of low and moderate income as specified in part 4900.1345, subpart 2, in the purchase of affordable housing according to parts 4900.1300 to 4900.1390. Toward this end, the agency may provide assistance directly to home buyers, may use funds to provide additional security for eligible loans, and may provide additional security for bonds issued by the agency.

Subp. 2. **Use of fund; general.** Home ownership assistance fund money may only be used in conjunction with first mortgage loans made or purchased by the agency. However, within this limitation, money may be combined with funds from outside sources, including funds from other federal, state, and local government agencies or instrumentalities, private foundations, mortgage insuring entities, the Federal Housing Finance Board, or other public or private sources.

Subp. 3. **Fund recapture.** Home ownership assistance must provide for a reasonable likelihood of recapturing the money for later use. Home ownership assistance fund money under part 4900.1375, subparts 2 to 9, must be secured by a lien on the property being purchased with an appropriate repayment schedule. A repayment provision under part 4900.1375, subparts 2 to 8, must take into consideration potential income growth of recipients and the percentage of income that recipients may reasonably dedicate toward mortgage payments under mortgage industry accepted underwriting standards.

Subp. 4. **Default.** A home ownership assistance fund loan under part 4900.1375, subparts 2 to 8, is in default if the recipient defaults in the timely observance and performance of a condition or covenant of the first mortgage loan or of the home ownership assistance fund loan, or sells, assigns, rents, or transfers the property, whether by deed, contract for deed, or otherwise. A transfer of the property to a surviving joint tenant, if any, by reason of the death of the recipient does not constitute a default.

In the event of default, the home ownership assistance fund loan is immediately due and payable in its entirety, at the option of the agency, and is subject to interest from the date of default until the date of payment at the same rate of interest as the first mortgage loan on the property.

4900.1345 RECIPIENTS HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Three-year requirement.** In cases in which home ownership assistance fund money is to be used in conjunction with mortgage revenue bond funds, each recipient of home ownership assistance fund money under part 4900.1375, subparts 2 to 7, must not have had an ownership interest in a principal residence for three years before the date of receipt of home ownership assistance fund money. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 7, in conjunction with funds other than mortgage revenue bond funds, the three-year requirement also applies, except that recipients who are single heads of households who have sold a principal residence as a result of a marriage dissolution decree or who have been displaced through government action or natural disaster are exempt from the requirement.

Subp. 2. **Income limits.** In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond funds, the maximum income for a recipient of home ownership assistance fund money must not exceed 60 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with funds other than mortgage revenue bond funds, the maximum income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

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

4900.1359 ELIGIBLE PROPERTY.

To qualify as an eligible property, the property being purchased with the assistance of a home ownership assistance fund loan must be a newly constructed or existing single-family residential dwelling located within the state. At the time the property is purchased, the property must be totally completed, in good repair, and meet mortgage industry accepted underwriting standards, or provisions must be made to assure that these standards will be met.

4900.1375 USE OF HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Scope.** The home ownership assistance fund may be used for the purposes specified in this part and within the limitations specified.

Subp. 2. **Monthly assistance.** The agency may provide recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on mortgage loans for eligible properties. The payment must not exceed $160 per month, and must be reduced annually.

Subp. 3. **Entry cost assistance.** The agency may provide interest-free loans to recipients who are determined, on the basis of normal credit procedures, to lack the financial resources necessary to pay entry costs on the property to be purchased. The amount of the entry cost assistance loan must equal (1) the maximum allowable under the applicable mortgage insurance program; or (2) the lesser of 50 percent of the entry costs or $3,500 if the maximum allowable under clause (1) exceeds this amount. Entry cost assistance may be used to pay a portion of the entry costs on the property to be purchased that are customary within the mortgage industry.

Subp. 4. **Noninterest participation loans.** The agency may take an interest-free participation interest in a first mortgage loan on an eligible property to reduce the interest rate on the mortgage note executed by recipients to affordable levels. The maximum interest rate reduction that the agency may effect on a first mortgage through a participation interest is two percent.

Subp. 5. **Equity participation loan.** The agency may provide equity participation loans to recipients in which a share of the equity proportionate to the agency's share of the equity participation loan shall be repaid to the agency upon sale of the property. The maximum equity participation loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 6. **Buydown loans.** The agency may provide an interest-free loan to buy down the interest rate on a first mortgage on an eligible property to enable increased recipient affordability. The maximum amount that a mortgage interest rate may be permanently bought down is 1.5 percent. The maximum amount that a mortgage interest rate may be temporarily bought down is three percent, and the amount of the interest rate buydown may not be reduced to a level that exceeds one percent per year.

Subp. 7. **Equity contribution loans.** The agency may provide interest-free equity contribution loans on an eligible property to enable a recipient to afford to purchase a home. The maximum equity contribution loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 8. **Emergency mortgage assistance.** The agency may provide interest-free emergency mortgage assistance loans or mortgage reinstatement loans for recipients who own and occupy an eligible property and who have been unable to make mortgage payments due to unemployment, medical reasons, death of a mortgagor, or other valid, substantiated reasons; are at least 60 days behind in monthly payments on a first or second residential mortgage; and have reasonable prospects for maintaining a first or second mortgage after receiving such a loan. Recipients must have established an acceptable credit rating before requesting assistance under this subpart and be ineligible for mortgage assistance from any federal government program. Loans may provide for installment of principal, interest, real estate taxes, hazard or flood insurance, mortgage insurance premiums, and homeowners association dues. A maximum of 24 months of assistance may be provided.

Subp. 9. **Construction or rehabilitation loans.** The agency may make or participate in construction or rehabilitation loans to nonprofit entities as defined in part 4900.0010, subpart 21, for the construction or rehabilitation of housing designed for program recipients. The maximum loan may not exceed the "average area purchase price safe harbor limitations for single family residences" as provided and adjusted from time to time by the United States Department of Housing and Urban Development under section 103(a) of the Internal Revenue Code of 1986. The minimum interest rate for loans under this part must not be less than three percent per year and the maximum term of the loan must not exceed three years. The loans shall be provided primarily in circumstances in which the agency is implementing efforts or programs to aid in disposition of government real estate assets or in specific neighborhood revitalization efforts. The loans may be made in conjunction with other subsidies from public or private sources. The agency shall impose requirements customarily used within the mortgage industry to effect repayment of loans provided under this part.

Subp. 10. **Coinsurance and mortgage insurance risk sharing agreements.** The agency may provide for coinsurance or risk sharing pools to facilitate the availability of agency mortgage financing programs in cooperation with either government mortgage insuring or guaranteeing entities, or with private mortgage insurance entities licensed to do business in the state and maintaining an A2 rating from Moody's Investor's Service and AA from Standard and Poors Corporation. The fund must be limited to provide for mortgage insurance services for first mortgage loans with loan-to-value ratios in excess of 90 percent in areas of the state in which

mortgage insurance services are unavailable on reasonable terms and conditions. The agency may not contribute more than five percent of the original principal amount for each loan to be coinsured under the pool, and may not pay more than 50 percent of the losses incurred on a claim for a defaulted mortgage loan subject to the pool.

4900.1390 LIMITS ON HOME OWNERSHIP ASSISTANCE.

The agency may further limit the amount of home ownership assistance fund money provided under part 4900.1375, subpart 2 to 8, to provide that recipients do not receive assistance beyond the amount necessary to make home ownership affordable under mortgage industry accepted underwriting standards. Among the factors that the agency must consider in limiting the amount of assistance shall be the interest rate on the first mortgage loans, the percentage of recipient income that may reasonably be spent on housing payments, the availability of funds from other sources to combine with the home ownership assistance fund, the resources available under the home ownership assistance fund, and general housing and construction costs in the state.

REPEALER. *Minnesota Rules*, parts 4900.1310, 4900.1320, 4900.1330, 4900.1340, 4900.1350, 4900.1360, 4900.1361, and 4900.1362, are repealed.

Department of Natural Resources

Proposed Permanent Rules Relating to Boat and Water Safety

Notice of Intent to Amend a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Natural Resources intends to adopt an amendment of the above-referenced rule without public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the amendment of these rules is contained in *Minnesota Statutes*, Section 361.26, subd. 2.

All persons have 30 days to submit comments in support of or in opposition to the 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. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing 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 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 Department will proceed pursuant to *Minnesota Statutes*, Section 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Anita M. Twaroski
Bureau of Information and Education
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4046

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 rules has been prepared and is available upon request from Anita M. Twaroski.

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 the submission of this material 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 a written request to Anita M. Twaroski.

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Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Home Ownership Assistance Fund

Rules as Proposed (all new material)

HOME OWNERSHIP ASSISTANCE FUND

4900.1300 SCOPE.

Parts 4900.1300 to 4900.1390 govern the home ownership assistance fund.

4900.1315 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4900.1300 to 4900.1390 have the meanings given them in this part.

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

Subp. 3. **Entry costs.** "Entry costs" means the financial requirements other than first mortgage loan proceeds needed to purchase residential real property, including required down payment, closing costs, mortgage insurance premium, origination fee, and other costs and expenses.

Subp. 4. **First mortgage loan.** "First mortgage loan" means a real estate loan that has priority over all other voluntary liens against certain real property.

Subp. 5. **Mortgage revenue bonds.** "Mortgage revenue bonds" means tax-exempt bonds issued by public entities payable from revenues derived from repayment of principal and interest on mortgage loans that were financed from the proceeds of the bonds.

Subp. 6. **Participation interest.** "Participation interest" means a percentage or specified monetary interest in a first mortgage loan that is shared by more than one lender.

Subp. 7. **Principal residence.** "Principal residence" means the primary, year-round domicile of the recipient. A residence that is primarily used in a trade or business, as an investment property, or a recreational home is not a principal residence.

Subp. 8. **Purchase price.** "Purchase price" means the

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contract price paid or payable by the buyer to the seller for the purchase of a property covered by a first mortgage loan.

Subp. 9. **Recipient.** "Recipient" means a person or household receiving home ownership assistance fund loans as described in part 4900.1375, subparts 2 to 8.

Subp. 10. **Single head of household.** "Single head of household" means an adult who is 18 years of age or older and is the parent, guardian, or legal custodian of one or more minor children under 18 years of age living in the home of the parent, guardian, or legal custodian.

4900.1331 HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Purpose of program.** The home ownership assistance fund is established to assist persons and families of low and moderate income as specified in part 4900.1345, subpart 2, in the purchase of affordable housing according to parts 4900.1300 to 4900.1390. Toward this end, the agency may provide assistance directly to home buyers, may use funds to provide additional security for eligible loans, and may provide additional security for bonds issued by the agency.

Subp. 2. **Use of fund; general.** Home ownership assistance fund money may only be used in conjunction with first mortgage loans made or purchased by the agency. However, within this limitation, money may be combined with funds from outside sources, including funds from other federal, state, and local government agencies or instrumentalities, private foundations, mortgage insuring entities, the Federal Housing Finance Board, or other public or private sources.

Subp. 3. **Fund recapture.** Home ownership assistance must provide for a reasonable likelihood of recapturing the money for later use. Home ownership assistance fund money under part 4900.1375, subparts 2 to 9, must be secured by a lien on the property being purchased with an appropriate repayment schedule. A repayment provision under part 4900.1375, subparts 2 to 8, must take into consideration potential income growth of recipients and the percentage of income that recipients may

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reasonably dedicate toward mortgage payments under mortgage industry accepted underwriting standards.

Subp. 4. **Default.** A home ownership assistance fund loan under part 4900.1375, subparts 2 to 8, is in default if the recipient defaults in the timely observance and performance of a condition or covenant of the first mortgage loan or of the home ownership assistance fund loan, or sells, assigns, rents, or transfers the property, whether by deed, contract for deed, or otherwise. A transfer of the property to a surviving joint tenant, if any, by reason of the death of the recipient does not constitute a default.

In the event of default, the home ownership assistance fund loan is immediately due and payable in its entirety, at the option of the agency, and is subject to interest from the date of default until the date of payment at the same rate of interest as the first mortgage loan on the property.

4900.1345 RECIPIENTS HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Three-year requirement.** In cases in which home ownership assistance fund money is to be used in conjunction with mortgage revenue bond funds, each recipient of home ownership assistance fund money under part 4900.1375, subparts 2 to 7, must not have had an ownership interest in a principal residence for three years before the date of receipt of home ownership assistance fund money. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 7, in conjunction with funds other than mortgage revenue bond funds, the three-year requirement also applies, except that recipients who are single heads of households who have sold a principal residence as a result of a marriage dissolution decree or who have been displaced through government action or natural disaster are exempt from the requirement.

Subp. 2. **Income limits.** In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond

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funds, the maximum income for a recipient of home ownership assistance fund money must not exceed 60 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with funds other than mortgage revenue bond funds, the maximum income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

4900.1359 ELIGIBLE PROPERTY.

To qualify as an eligible property, the property being purchased with the assistance of a home ownership assistance fund loan must be a newly constructed or existing single-family residential dwelling located within the state. At the time the property is purchased, the property must be totally completed, in good repair, and meet mortgage industry accepted underwriting standards, or provisions must be made to assure that these standards will be met.

4900.1375 USE OF HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. **Scope.** The home ownership assistance fund may be used for the purposes specified in this part and within the limitations specified.

Subp. 2. **Monthly assistance.** The agency may provide recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on mortgage loans for eligible properties. The payment must not exceed $160 per month, and must be reduced annually.

Subp. 3. **Entry cost assistance.** The agency may provide interest-free loans to recipients who are determined, on the basis of normal credit procedures, to lack the financial resources necessary to pay entry costs on the property to be purchased. The amount of the entry cost assistance loan must

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equal (1) the maximum allowable under the applicable mortgage insurance program; or (2) the lesser of 50 percent of the entry costs or $3,500 if the maximum allowable under clause (1) exceeds this amount. Entry cost assistance may be used to pay a portion of the entry costs on the property to be purchased that are customary within the mortgage industry.

Subp. 4. **Noninterest participation loans.** The agency may take an interest-free participation interest in a first mortgage loan on an eligible property to reduce the interest rate on the mortgage note executed by recipients to affordable levels. The maximum interest rate reduction that the agency may effect on a first mortgage through a participation interest is two percent.

Subp. 5. **Equity participation loan.** The agency may provide equity participation loans to recipients in which a share of the equity proportionate to the agency's share of the equity participation loan shall be repaid to the agency upon sale of the property. The maximum equity participation loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 6. **Buydown loans.** The agency may provide an interest-free loan to buy down the interest rate on a first mortgage on an eligible property to enable increased recipient affordability. The maximum amount that a mortgage interest rate may be permanently bought down is 1.5 percent. The maximum amount that a mortgage interest rate may be temporarily bought down is three percent, and the amount of the interest rate buydown may not be reduced to a level that exceeds one percent per year.

Subp. 7. **Equity contribution loans.** The agency may provide interest-free equity contribution loans on an eligible property to enable a recipient to afford to purchase a home. The maximum equity contribution loan that the agency may provide must not exceed 20 percent of the purchase price of the property or $15,000, whichever is less.

Subp. 8. **Emergency mortgage assistance.** The agency may provide interest-free emergency mortgage assistance loans or

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mortgage reinstatement loans for recipients who own and occupy an eligible property and who have been unable to make mortgage payments due to unemployment, medical reasons, death of a mortgagor, or other valid, substantiated reasons; are at least 60 days behind in monthly payments on a first or second residential mortgage; and have reasonable prospects for maintaining a first or second mortgage after receiving such a loan. Recipients must have established an acceptable credit rating before requesting assistance under this subpart and be ineligible for mortgage assistance from any federal government program. Loans may provide for installment of principal, interest, real estate taxes, hazard or flood insurance, mortgage insurance premiums, and homeowners association dues. A maximum of 24 months of assistance may be provided.

Subp. 9. **Construction or rehabilitation loans.** The agency may make or participate in construction or rehabilitation loans to nonprofit entities as defined in part 4900.0010, subpart 21, for the construction or rehabilitation of housing designed for program recipients. The maximum loan may not exceed the "average area purchase price safe harbor limitations for single family residences" as provided and adjusted from time to time by the United States Department of Housing and Urban Development under section 103(a) of the Internal Revenue Code of 1986. The minimum interest rate for loans under this part must not be less than three percent per year and the maximum term of the loan must not exceed three years. The loans shall be provided primarily in circumstances in which the agency is implementing efforts or programs to aid in disposition of government real estate assets or in specific neighborhood revitalization efforts. The loans may be made in conjunction with other subsidies from public or private sources. The agency shall impose requirements customarily used within the mortgage industry to effect repayment of loans provided under this part.

Subp. 10. **Coinsurance and mortgage insurance risk sharing agreements.** The agency may provide for coinsurance or risk sharing pools to facilitate the availability of agency mortgage

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financing programs in cooperation with either government mortgage insuring or guaranteeing entities, or with private mortgage insurance entities licensed to do business in the state and maintaining an A2 rating from Moody's Investor's Service and AA from Standard and Poors Corporation. The fund must be limited to provide for mortgage insurance services for first mortgage loans with loan-to-value ratios in excess of 90 percent in areas of the state in which mortgage insurance services are unavailable on reasonable terms and conditions. The agency may not contribute more than five percent of the original principal amount for each loan to be coinsured under the pool, and may not pay more than 50 percent of the losses incurred on a claim for a defaulted mortgage loan subject to the pool.

4900.1390 LIMITS ON HOME OWNERSHIP ASSISTANCE.

The agency may further limit the amount of home ownership assistance fund money provided under part 4900.1375, subparts 2 to 8, to provide that recipients do not receive assistance beyond the amount necessary to make home ownership affordable under mortgage industry accepted underwriting standards. Among the factors that the agency must consider in limiting the amount of assistance shall be the interest rate on the first mortgage loans, the percentage of recipient income that may reasonably be spent on housing payments, the availability of funds from other sources to combine with the home ownership assistance fund, the resources available under the home ownership assistance fund, and general housing and construction costs in the state.

REPEALER. Minnesota Rules, parts 4900.1310, 4900.1320, 4900.1330, 4900.1340, 4900.1350, 4900.1360, 4900.1361, and 4900.1362, are repealed.

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Home Ownership Assistance Fund

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication
in the State Register

Carla M. Riehle
Assistant Revisor

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to the Homeownership
Assistance Fund

Statement of Need and Reasonableness

Minnesota Rules 4900.1300 through 4900.1390

Minnesota Statutes section 462A.21, subdivision 8, authorizes the Minnesota Housing Finance Agency (MHFA) to establish a Homeownership Assistance Fund (HAF) on terms and conditions it deems advisable to assist persons of low and moderate income in the purchase of affordable residential housing and further provides that MHFA may use the funds to provide additional security for eligible loans or to pay costs associated with or provide additional security for bonds issued by MHFA. Since 1978, HAF has been used to provide downpayment assistance and/or monthly payment assistance to recipients who receive MHFA first mortgage loans through various mortgage revenue bond programs. Over 5,500 recipients have received HAF loans in an aggregate amount of $18.7 million.

The current administrative rules which govern HAF only provide for the use of HAF proceeds in the manner specified above. MHFA has recently undertaken a review of both the administrative rules governing HAF and the uses to which HAF proceeds are put. This review included consideration of various alternatives for the use of HAF proceeds, and included consultation with representatives of institutional lenders, nonprofit housing providers, and local government. As a result of this review, MHFA is hereby proposing a revision to the administrative rules governing HAF which greatly expands the potential uses of HAF proceeds while imposing appropriate limitations on their use.

MHFA is proposing revision of the administrative rules governing HAF for three primary reasons. First, the federal government has recently passed new affordable housing legislation and many additional proposals are being considered and developed. Such legislation typically provides for leveraging of federal resources with other sources of capital either as an absolute requirement for receipt of federal funds or as a priority by which limited federal funds will be allocated. The proposed rule will provide for reasonable flexibility in the application of HAF proceeds so that a variety of proposals under new federal housing legislation may be considered.

Second, MHFA has been developing a number of new program initiatives in which it may be appropriate to apply HAF in new and innovative fashions. Furthermore, various nonprofit and for-profit providers of affordable housing are proposing initiatives in which multiple sources of capital are being combined to provide affordable homeownership opportunities. Again, the proposed rules revision would provide for reasonably flexible application of HAF funds in such initiatives.

Finally, the use of HAF in its current form has declined over the past three years. HAF was originally devised to work most effectively in conjunction with insured conventional mortgage loans and majority of MHFA loans were originated in this fashion as late as 1986. Since 1986, insured conventional loans have rapidly declined as a percentage of Agency business, and FHA/VA loans currently comprise over 80% of mortgage originations. FHA/VA loans originated in conjunction with HAF were not underwritten as favorably as insured conventional loans, and HAF use subsequently declined. Although FHA has recently taken steps to provide for more aggressive underwriting treatment of HAF loans, it is not known whether HAF use will increase to the levels that it had been previously.

Minnesota Rules 4900.1300 and 4900.1315 provides the scope and definition of the Homeownership Assistance Fund rules. Nothing is contained in the definitions which is deemed controversial.

Minnesota Rules 4900.1331 provides general information regarding HAF. Under subpart 2 of this section. it is noted that HAF monies may only be used in conjunction with first mortgage loans made or purchased by MHFA, but that monies may be combined with outside sources within this limitation. This is to enable MHFA to leverage funds in collaborative efforts with other entities within the specific uses of HAF noted in Minnesota Rules 4900.1375. This enables MHFA to respond appropriately and flexibly to various proposals pertaining to housing affordability that may be generated from a variety of sources.

Minnesota Rules 4900.1331, subpart 3, specifies that individual applications of HAF monies must provide for a reasonable likelihood of recapturing said monies for later use. The subpart further provides that a lien with an appropriate repayment schedule must be taken by MHFA for certain uses described under Minnesota Rules 4900.1375 to provide for adequate security. HAF has been structured to provide for fund recapture since its inception so that scarce public resources may be reused to further affordability for homeownership.

Minnesota Rules 4900.1331, subpart 3, also provide that repayment provisions for certain uses of HAF allowed under part 4900.1375 must take into consideration potential income growth of recipients and percentage of income that recipients may reasonably dedicate toward mortgage payments under mortgage industry accepted underwriting standards. This provision was also provided in previous rules governing HAF. It is designed to both be sensitive to the fact that individuals may only reasonably dedicate a certain portion of their income toward HAF repayment, which is a portion of total housing debt service. However, it is also appropriate to establish a reasonable, progressive repayment schedule that provides for accelerated repayment as a HAF recipient's income grows. This enables funds to be recaptured and recycled more efficiently and effectively.

Minnesota Rules 4900.1331, subpart 4 covers HAF default. It is taken virtually in its entirety from current administrative rules governing HAF. The only modification of this rule is that the default provisions only apply to appropriate uses of HAF in Minnesota Rules 4900.1375.

Minnesota Rules 4900.1345 specifies requirements pertaining to HAF recipients. Subpart 1 describes the "three year requirement," which, for the most part, limits HAF assistance to first time homebuyers. In this subpart, the three year requirement is in

effect for certain specified uses of HAF under Minnesota Rules 4900.1375 in all cases in which HAF is used with mortgage revenue bond funds. In fact, the three year requirement is identical to the three year requirement described in federal law pertaining to the use of mortgage revenue bond funds. In cases in which HAF is to be used with funds other than mortgage revenue bond funds, the three year requirement also applies, except exceptions are provided for certain circumstances in which imposition of the three year requirement would be particularly burdensome. It is deemed that the three year requirement with the exceptions specified is appropriate as assistance is most appropriately provided to individuals that housing policy studies have shown find it most difficult to acquire affordable housing.

Minnesota Rules 4900.1345, subpart 2, provides income limits for HAF recipients. The proposed rule greatly simplifies the manner by which HAF income limits may be determined by replacing a cumbersome income limit matrix with an independent index promulgated by the United States Department of Housing and Urban Development. The percentages of income specified in the proposed rule provide that HAF funds are reserved for individuals that are under the income threshold that HUD specifies as "low income." The legislative history of HAF indicates that it was intended to be used by modest income individuals, and the proposed rule continues to meet that requirement.

Minnesota Rules 4900.1359 covers property that is eligible to be purchased with HAF assistance. An addition is provided to the previous rule that specifies that, at the time the property is purchased, the property must be totally completed, in good repair, and meet mortgage industry accepted underwriting standards or provisions must be made to assure that these standards will be met. It is appropriate that modest income borrowers only purchase safe, sound and sanitary housing, and the addition to this rule assures that this will occur.

Minnesota Rules 4900.1375 describes the uses of HAF as well as imposes limitations on these uses. Generally, the uses described in this part retains both a modified monthly assistance and downpayment assistance program, but also adds seven additional potential uses. While some flexibility is maintained as to the application of monies for each particular use, limitations were also provided in all cases to maintain control on funds use. These limitations were often derived to be compatible with other sources of funds with which HAF monies may be leveraged.

Minnesota Rules 4900.1375, subpart 2, covers monthly assistance, and anticipates a monthly assistance program which is compatible with the program described under previous administrative rules. As in the previous administrative rules, monthly assistance must be reduced annually. However, the amount of monthly assistance may be as much as $160 per month, and the specific increment by which monthly assistance must be reduced is not specified. This flexibility is intentional so that customized applications of HAF within said limitations may be developed.

Minnesota Rules 4900.1375, subpart 3, retains what was previously referred to as the HAF "downpayment" assistance program. This program has been extended to include all entry costs, as closing costs beyond downpayment also are a substantial barrier to homeownership. As under previous rule, only 50% of entry costs may be provided under the program. However, the maximum allowable entry cost assistance is now $3500, which is compatible with entry cost provisions provided by cities of Minneapolis and St. Paul. Thus, leverage opportunities are anticipated within this subpart.

Minnesota Rules 4900.1375 allows non-interest participation loans under HAF to reduce the interest rate on a first mortgage loan to affordable levels. The maximum interest rate that MHFA may effect on a first mortgage loan through a participation interest is established at 2% to limit the total contribution that MHFA may make in any such circumstance to reasonable levels.

Minnesota Rules 4900.1375, subparts 5 and 7 cover equity participation loans and equity contribution loans. Both of these devices have been successfully used in various housing programs both within Minnesota and nationally. The limitations on these programs were established to be compatible with programs that are currently operated by the cities of Minneapolis and St. Paul. Again, this provides leverage opportunities to stretch the use of HAF proceeds.

Minnesota Rules 4900.1375, subpart 6, covers buy down loans. The buy down limitations are established to be compatible with limitations on such programs imposed by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, which are the organizations which, for the most part, establish underwriting standards for the mortgage industry.

Minnesota Rules 4900.1375, subpart 8, provides for the development of an emergency mortgage assistance component for eligible recipients that are unable to make mortgage payments due to circumstances which are generally beyond their control. MHFA reviewed similar programs that have been developed for such purposes throughout the country, and has established limitations on such use that are common in such programs.

Minnesota Rules 4900.1375, subpart 9, allows HAF money to be used on construction for rehabilitation loans to nonprofit entities that are constructing or rehabilitating housing designed for HAF recipients. This component is designed primarily to aid in specific neighborhood revitalization efforts or to aid in disposition of government real estate assets by entities such as the Federal Housing Administration, the Resolution Trust Corporation, or MHFA. Again, appropriate limitations have been provided as to loan amount using an independent index and as to interest rate.

Minnesota Rules 4900.1375, subpart 10, allows HAF to be used for coinsurance or mortgage insurance risk sharing agreements. In recent years, private mortgage insurers have been unwilling to provide mortgage insurance on equivalent terms and conditions in all areas of Minnesota, which hinders affordability in many Minnesota counties. Various models have been developed by which private mortgage insurers are willing to share risk with public agencies that are attempting to provide affordable housing in such areas. The limitations within this subpart are established based upon an agreement that MHFA has already entered into with a private mortgage insurer but which used funds other than HAF.

Minnesota Rules 4900.1390 places limits on the application of HAF monies. This section is included so that the use of HAF money provided under Minnesota Rules 4900.1375 do not extend beyond that which is necessary to make housing affordable. With limited resources, it is inappropriate for individuals to receive subsidies which are not needed. Factors that may be considered in limiting the amount of assistance available are also provided under this section.

MHFA is mindful of the provisions of section 14.115 of Minnesota Statutes, entitled "Small Business Considerations in Rulemaking." Since the recipients of HAF loans under the proposed regulation either are natural persons and families of low and moderate income who purchase a home with a first mortgage from MHFA or are nonprofit housing providers, the regulation does not effect small businesses directly, and the said law, by its terms, is inapplicable to this proposed regulation. Further, to the extent that HAF uses which are subject to this regulation may have an indirect effect on small businesses, the effect of this proposed rule is to make such loans more capable of feasible underwriting and, consequently, more obtainable; and, as a result, the proposed rule has no negative effect on small businesses.

METROPOLITAN
FINANCIAL MORTGAGE
A METROPOLITAN FINANCIAL COMPANY

February 6, 1990

Ms. Sue Noren
Legal Division
Minnesota Housing Finance Agency
400 Sibley Street
Suite 300
St. Paul, MN 55101

Dear Ms. Noren:

In the proposed rules for the Homeownership Assistance Fund that were published in the State Register of January 22, 1990, in particular, Rule 4900.1345, sub part 2, in regard to income limits, it was noted that MHFA would determine their income limits as a percentage of gross income.

While the noted limitation seems to be reasonable, all previous MHFA programs involving HAF have always dealt with the "adjusted" gross income limits, as defined by the Agency. In this particular program, you have not dealt with the adjusted income limits and it would seem to be more compatible with other programs if you could again deal with adjusted income. This would not only align this program with past and current programs, but would also be in accordance with what lenders are accustomed to dealing with.

Thank you for your consideration in this matter.

Sincerely,

METROPOLITAN FINANCIAL MORTGAGE CORPORATION

Colleen P.O'Kane
Vice President

cpo



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600 Atlantic Avenue • Morris, Minnesota 56267 • (612) 589-4433

February 7, 1990

Susan K. Noren
Legal Division
Minnesota Housing Finance Agency
400 Sibley Street
St. Paul, MN 55101

Dear Ms. Noren:

In light of the recent publication of rules concerning the Home Ownership Assistance program, I'd like to bring to your attention what I believe to be an oversight and inconsistency in the rule.

The rule speaks to "gross income" when determining a borrower's income. All MHFA programs that I'm familiar with refer to "adjusted gross income" to determine income qualifications. For continuity purposes and to diminish confusion among your lenders and our clients, I strongly urge usage of "adjusted gross income" as a determining factor for HAF program eligibility of prospective borrowers.

Should you have any comments regarding the above observation, please do not hesitate to contact me.

Yours sincerely,

CITIZENS BANK OF MORRIS

Maggie Fletcher
Assistant Vice President

MMF/dtl



MEMBER
FDIC

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In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Homeownership
Assistance Fund

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 26, 1990