

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: February 13, 1991

TO: SUSAN K. NOREN
Minnesota Housing Finance Agency

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to
Single Family Mortgage Revenue Bond Authority

The above-referenced rule has been approved as to its legality by the Attorney General on February 11, 1991.

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

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:sc

cc: Bill Kuretsky
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 30 1789
DATE RECEIVED 1-28-91
REVIEW DATE 2-8-91
DUE DATE 2-14-91
(DIS)APPROVED 2-11-91
WITHDRAWN

Docket No. 05.0009.0450
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 1-31-91
REVISOR (DIS)APPROVED 2-4-91
FILED W/SEC. OF STATE 2-11-91
RETURNED TO AGENCY

✓ 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

✓ Board's Authorizing Resolution
October 25, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
462A.06 Sub 4 and 7 Statutory Authority
Small Business Statement
Expenditure of public money statement
December 14, 1990 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
December 14, 1990 Dated 30/25 days before adoption
✓ Notice attached (indicates it is attached)
Copy of rule or summary attached

✓ Publication in State Register
December 17, 1990 Date (30)/25 days before adoption

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

✓ Resolution Adopting
January 24, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
January 24, 1991 Date

Written Requests, Submissions or Comments

Declaration of Attorney
William Ruvetsky Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affid[illegible]

Housing Finance Agency

Adopted Permanent Rules Relating to Single Family Mortgage Revenue Bond Authority

Rules as Adopted

4900.3200 SCOPE.

Parts 4900.3200 to 4900.3290 govern the allocation from the housing pool for single family housing programs submitted by cities to the agency as authorized by Minnesota Statutes, section 474A.061, subdivision 2a.

4900.3210 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3200 to 4900.3290 the following terms have the meanings given them.

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

Subp. 3. **Applicant.** "Applicant" means a city applying for mortgage revenue bond authority under parts 4900.3200 to 4900.3290.

Subp. 4. **Application.** "Application" means a submittal requesting mortgage revenue bond authority according to parts 4900.3200 to 4900.3290 as described in part 4900.3230.

Subp. 5. **City.** "City" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 6. **Existing housing.** "Existing housing" means single family housing that either has been previously occupied before the first day of the origination period or has been available for occupancy for at least 12 months but has not been previously occupied.

Subp. 7. **Housing pool.** "Housing pool" means the pool into which the amount of the annual volume cap allocated to housing pursuant to Minnesota Statutes, section 474A.03, subdivision 1, is deposited.

Subp. 8. **Metropolitan area.** "Metropolitan area" means the Minneapolis-St. Paul Metropolitan Statistical Area as defined by

the United States Department of Commerce, Bureau of the Census.

Subp. 9. **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. 10. **New construction, newly constructed housing, or new housing.** "New construction," "newly constructed housing," or "new housing" means single family housing that has not been previously occupied.

Subp. 11. **Origination period.** "Origination period" means the period that loans financed with the proceeds of mortgage revenue bonds are available for the purchase of single family housing. The origination period begins when financing actually becomes available to the borrowers for loans.

Subp. 12. **Program.** "Program" means program under part 4900.3220, subparts 1 to 7.

Subp. 13. **Recycling.** "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

Subp. 14. **Redevelopment area.** "Redevelopment area" means a compact and contiguous area within which the city finds by resolution that 70 percent of the parcels in the area are occupied buildings, streets, utilities, or other improvements and more than 25 percent of the buildings, not including out buildings, are structurally substandard to a degree requiring substantial renovation or clearance.

Subp. 15. **Single family housing.** "Single family housing" means one to four family dwelling units eligible to be financed from the proceeds of mortgage revenue bonds under federal law.

Subp. 16. **Structurally substandard.** "Structurally substandard" means containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light, ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors. The defects or deficiencies must be of

sufficient total significance to justify substantial renovation or clearance.

4900.3220 ELIGIBLE PROGRAMS.

Subpart 1. **General program eligibility.** All applications for single family housing programs under Minnesota Statutes, section 474A.061, subdivision 2a, must be made by a city and must meet the requirements of this part.

Subp. 2. **Borrower income limits.** The adjusted income of borrowers receiving mortgage loans under eligible programs may not exceed the agency's income limits as determined under applicable administrative rule except as provided in this subpart. For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.

In the metropolitan area, adjusted incomes of borrowers receiving mortgage loans under eligible programs may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the United States Department of Housing and Urban Development from time to time.

If the agency's income limits are lowered during the origination period, cities may use the income limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's income limits are raised during the origination period, cities may use the higher income limits for the duration of the origination period.

Subp. 3. **House price limits.** House price limits for homes that are security for mortgages under eligible programs may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limits for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 80 percent of the safe harbor limitation for existing housing if a subsidy is used to reduce the effective purchase price of the property to the above levels.

If the agency's house price limits are lowered during the origination period, cities may use the house price limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's house price limits are raised during the origination period, cities may use the higher house price limits for the duration of the origination period.

Cities requesting house price limits higher than the agency's house price limits must include data establishing the median purchase price in the city in the application. The data may be provided in the form of an independent study conducted by the city which reflects at least six months of real estate activity pertaining to closed house sales within the city during the previous 12-month period. Data may be accumulated from multiple listing services, appraisers or real estate agents, filings pertaining to closed real estate sales, records from the county auditor pertaining to real estate sales, or other sources that are demonstrated to provide accurate data pertaining to city real estate activity.

Subp. 4. **Limits on new construction in metropolitan area.** During the first ten months of an origination period, the agency or cities may not make mortgage loans for the purchase of newly constructed housing in the metropolitan area unless one of the following conditions is met:

A. The newly constructed housing is located in a redevelopment area and is replacing a structurally substandard structure or structures.

B. The new housing is located on a parcel purchased by the city or conveyed to the city under Minnesota Statutes, section 282.01, subdivision 1.

C. The new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of mortgage revenue bonds, in which federal, state, or local assistance is used to substantially improve the terms of financing or to substantially write down the purchase price of the new housing. A housing affordability initiative must meet one or more of the following criteria:

(1) The new construction program is accepted or designated under The United States Department of Housing and Urban Development (HUD) Affordable Housing Program or any successor program sponsored by HUD to encourage affordable, newly constructed housing.

(2) The program provides that financial resources other than those necessary to complete the mortgage revenue bond sale are applied to reduce the cost of the housing or improve the terms of the mortgage loans provided through the sale. A contribution greater than or equal to five percent of the purchase price of each newly constructed home to be financed with mortgage revenue bond proceeds must be provided to meet this criterion. The contributions may be provided either in whole or in part from federal, state, or local government resources or programs, private foundations, or the Federal Housing Finance Board.

(3) The program provides that the applicable local government authority in the jurisdiction in which the houses are to be constructed takes affirmative steps to relax regulation to result in greater housing affordability. The steps must demonstrably reduce the cost of the housing by at least five percent.

(4) The program supports the efforts of housing groups that support self-help or owner built housing initiatives in which at least 15 percent of the labor or materials or both needed to complete the construction of each house is acquired or donated through the efforts of such groups.

(5) The program provides that the housing is constructed by a nonprofit entity as defined in part 4900.0010, subpart 21, that has a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

Subp. 5. **Limits on new construction outside metropolitan area.** During the first ten months of an origination period, the agency or cities may make mortgage loans for the purchase of existing housing or newly constructed housing in areas outside

the metropolitan area. A city must include in its application a description, if applicable, of the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing as opposed to new housing. The steps may include, but are not limited to, the conditions in subpart 4.

Subp. 6. **Builder set aside limits.** The agency or cities may not make available, provide set asides, or commit to make available proceeds of mortgage revenue bonds for the exclusive use of builders or developers for loans to eligible purchasers of new housing except as provided in subparts 4 and 5.

Subp. 7. **Other property requirements.** The agency or cities may make mortgage loans to finance the purchase of existing housing both in and outside the metropolitan area immediately upon commencement of the origination period. After the first ten months of the origination period, the agency or cities may make mortgage loans to finance the purchase of existing homes and new construction without regard to the restrictions contained in subparts 4 and 5.

Subp. 8. **Reporting.** The agency and any city that provides funds for new housing financed with the proceeds of mortgage revenue bonds shall report to the chairs of the appropriate housing related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage revenue bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price of homes financed, and steps taken to encourage loan activity as required in subpart 5.

4900.3230 APPLICATION FOR MORTGAGE REVENUE BOND AUTHORITY.

Subpart 1. **General.** Cities may apply to the agency for mortgage revenue bond authority from the housing pool as established under Minnesota Statutes, chapter 474A, as provided in subparts 2 and 3. Upon application and selection for mortgage revenue bond authority, cities may elect to either issue mortgage revenue bonds for eligible programs on their own

behalf or through joint powers agreements, or have the agency issue bonds on their behalf.

Subp. 2. **Application period.** In the event that bonding authority is available in the housing pool on the dates prescribed, cities may submit applications to the agency for single family mortgage revenue bond authority for eligible programs after April 1 and until April 15, and after July 1 and until July 15, of each year.

Subp. 3. **Application requirements.** Cities that wish to apply for single family mortgage revenue bond authority may do so by providing the information described in this subpart. The agency may develop a form and format by which the information may be provided, but also will accept submittals from cities that do not meet the agency developed form and format and meet the requirements of this subpart.

A. The city may submit a housing plan as described in Minnesota Statutes, section 462C.03, subdivisions 1 and 1a, or may submit an application on a form developed by the agency which describes the program and demonstrates that the program meets a locally identified housing need and is economically viable.

B. The city must provide information which clearly establishes that the program to be funded with mortgage revenue bonds meets the requirements of part 4900.3220, subparts 2 to 7.

C. The city must request a specific allocation from the housing pool which may not exceed the lesser of $4,000,000 or 20 percent of the total amount available for allocation after the first Monday in April. The minimum allocation that may be requested shall be $250,000.

D. The city must describe, if applicable, the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing before new housing under the conditions in part 4900.3220, subpart 5.

E. The city must submit an application deposit equal to one percent of the requested allocation from the housing pool.

4900.3250 APPLICANT SELECTION.

Subpart 1. **Negotiations of allocation.** Within a reasonable period after the application periods specified in part 4900.3230, subpart 2, but in no circumstances later than 30 days after the end of an application period, the agency shall convene a meeting to allocate the available funds from the housing pool. Before the meeting, applicants shall designate their representatives to the meeting in writing to the agency. At the meeting, the agency and a representative for each applicant shall negotiate the terms of an agreement regarding the available bonding authority among the applicants. The agreement must allot available bonding authority among the applicants. At the meeting, the agency and a representative for each applicant may discuss matters pertaining to the terms under which the agency would issue bonds on behalf of cities.

Subp. 2. **Notification to finance commissioner.** Upon the establishment of an agreement with cities, the agency shall forward to the commissioner of finance the amounts allotted to each applicant under the agreement. The agency shall also forward the application fee. A copy of the agreement forwarded to the commissioner of finance shall be sent to each applicant.

Subp. 3. **Designation of issuance.** Upon the establishment of the agreement in subpart 1, the city must designate within 15 days of the date of the agreement whether it plans to issue mortgage revenue bonds on its own behalf or through a joint powers agreement, or whether it plans to ask the agency to issue mortgage revenue bonds on its behalf. If the city does not choose to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3290. If the city plans to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3270.

4900.3270 AGENCY ISSUANCE ON BEHALF OF CITIES.

Subpart 1. **Agency bond issuance.** The agency may issue bonds on behalf of participating cities pursuant to part 4900.3250, subpart 3. The agency shall request an allocation

from the commissioner of finance for all cities who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August.

Subp. 2. **Program administration.** The agency may develop agreements which govern administrative procedures pertaining to programs funded with mortgage revenue bonds sold on behalf of cities. The agreements may govern matters including, but not limited to, local lender participation, mortgage servicing and servicers, mortgage processing and underwriting, and the period of time that funds may remain exclusively available to participating cities. In developing the agreements, the agency shall attempt to facilitate city programs while prudently addressing agency credit risk.

Subp. 3. **Homeownership assistance fund.** The agency may make the homeownership assistance fund as described in parts 4900.1300 to 4900.1390 available to cities participating under this part.

Subp. 4. **Application deposit refund.** Any application deposits returned to the agency pursuant to Minnesota Statutes, section 474A.061, subdivision 4, or 474A.131, subdivision 1, shall be forwarded by the agency to the appropriate city.

4900.3290 CITY ISSUANCE ON ITS OWN BEHALF.

Subpart 1. **City bond issuance.** A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner of finance. If the total amount requested by all applicants exceeds the amount available in the housing pool, the city may not receive a greater amount than it would have received under the agreement forwarded by the agency to the commissioner. No city may request or receive an allocation under this subpart until the agreement under part 4900.3250, subpart 1, has been forwarded to the commissioner. Between the first Monday in April and the

last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the agency. The commissioner of finance shall allocate the requested amount to the city or cities subject to the limits under this subpart.

Subp. 2. **Recycling.** If a city issues mortgage revenue bonds from an allocation under this part, the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner of finance in writing of the reason that recycling was not possible and the reason the issuer elected not to have the agency issue the bonds.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 11 1991
Secretary of State

APPROVED AS TO FORM AND LEGALITY

February 11 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassady
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 11 1991

Joan Anderson Growe
Secretary of State

3:50

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Permanent
Rules Relating to Single Family Mortgage
Revenue Bond Authority

Statement of Need and Reasonableness

4900.3200 through 4900.3290:

Minnesota Statutes Section 474A.061, Subdivision 2a governs the bond allocation process from the housing pool for single family housing programs submitted by cities to the Minnesota Housing Finance Agency (Agency). Minnesota Statutes Section 474A.408 establishes limitations on the use of bonds for single family housing programs by both cities and the Agency. The proposed rules have been developed to address city programs under the above-referenced statutes.

Proposed Minnesota Rules 4900.3210, subparts 1 through 16, provide definitions under these rules. The definitions provided under these rules were either taken directly from the applicable statutes or are standard definitions pertaining to Agency programs as are commonly provided in other rules. Thus, the definitions are not deemed to be controversial.

Proposed Minnesota Rules 4900.3220 specify eligible programs that may be provided with the proceeds of bonds from the housing pool. Under subpart 2 of these rules, it is clarified that "adjusted income" as contained in the statute refers to adjusted income as defined in part 4900.0010, subpart 3 as opposed to any other definitions of adjusted income that may be contained in other statutes. This subpart also recognizes that the raising or lowering of borrower income limits during a bond origination period may have an adverse impact on the operation of an eligible program and, thus, provides direction for cities in the event that Agency income limits are raised or lowered. Such direction has been provided to enable cities to flexibly deal with this occurrence without damaging the operation of their program.

Proposed subpart 3 of Minnesota Rules 4900.3220 governs house price limits for eligible programs. The same flexibility is provided to cities if such house price limits are raised or lowered as was described in the preceding paragraph. This subpart also establishes procedures that cities must follow if they plan to request house price limits higher than the Agency's house price limits. Cities are provided with the time period for which they must provide data establishing the median purchase price of a home in their locality as well as acceptable sources of data. Again, flexibility is provided to cities so that they may assemble data from a variety of sources that may be available in their particular locality.

Proposed subpart 4 of Minnesota Rules 4900.3220 imposes limits on new construction in the Twin Cities Metropolitan Area for city programs as described in Minnesota Statutes 474A.048. Subpart 4, A and B is taken almost directly from the statute. Subpart 4C, (1) through (5) has been provided to specify acceptable housing affordability initiatives for eligible programs. These housing affordability initiatives

provide a range of acceptable activities for affordable housing as are currently recognized in the housing community. They are specific as to both allowable activities and the extent to which contributions must be made to such activities.

Proposed subpart 5 of Minnesota Rules 4900.3220 provides that cities outside the Twin Cities Metropolitan Statistical Area must provide a description of the steps under their eligible programs to encourage loans for existing housing as opposed to new housing. While it is clear that these steps may include the housing affordability initiates as described in subpart 4, such cities are not limited to these initiatives as the statute did not specify that this was to be the case. Rather, the statute recognized that there may be a variety of circumstances occurring in cities throughout the state that may result in a greater or lesser need for newly constructed housing. As a result, this was reflected in the rule.

Proposed Minnesota Rules 4900.3220, subparts 6 through 8 either provide material directly from the applicable statutes or clarify the intent of the statute. None of the material contained in these subparts is deemed to be controversial.

Proposed Minnesota Rules 4900.3230 describes the application process by which cities may apply for bond authority from the housing pool. Subpart 1 provides a general summary on city options pertaining to such bond authority and subpart 2 specifies the application period as provided in the statute.

Proposed subpart 3 of Minnesota Rules 4900.3230 describes the application requirements for each city. The application requirements have been structured so that the cities submit data that is required under the applicable statutes and these administrative rules. To demonstrate housing need and economic viability of an eligible program, cities may submit a housing plan as described in Minnesota Statutes 462C.03, Subdivisions 1 and 1a, as is currently required for many city housing programs and is commonly completed by larger cities. However, the rules also provides that cities may submit data demonstrating that the program meets a locally identified housing need and is economically viable on a form to be developed by the Agency. This has been done to facilitate applications by smaller cities that may wish to participate in this program but do not commonly develop the housing plan described under statute. Subpart 3 also establishes that the minimum allocation that may be requested shall be $250,000. Economically, it is unfeasible to either sell bonds or have the Agency issue bonds on behalf of a city that needs funds less than this amount. Furthermore, there are alternate programs that may provide similar funds to such cities.

Proposed Minnesota Rules 4900.3250 describes the applicant selection process. Under subpart 1, the Agency obligates itself to hold a meeting no later than 30 days after the end of an application period to allocate the available funds from the housing pool. This time period was prescribed to enable the Agency to have a sufficient amount of time to review the applications but also to expedite the process. So that the Agency may negotiate the terms of an agreement allotting bond authority with authorized city representatives, it is required that applicants shall designate their representatives to this meeting in writing to the Agency. The rule clarifies that the Agency and representatives of each applicant may discuss matters pertaining to the terms under which the Agency would issue bonds on behalf of cities during the negotiations allocating bonding authority.

Under proposed subpart 2 of Minnesota Rules 4900.3250, the Agency agrees to send a copy of the agreement allocating bond authority that is forwarded to the Commissioner of Finance under statute to each applicant. This is done to assure each applicant that this material has been appropriately and correctly submitted.

Under proposed subpart 3 of Minnesota Rules 4900.3250, it is required that each city must designate within 15 days of the date of the agreement whether it plans to issue mortgage revenue bonds on its own behalf or through a joint powers agreement, or whether it plans to ask the Agency to issue mortgage revenue bonds on its behalf. This notification requirement enables the Agency to expedite the structuring of a bond sale for cities that choose to have the Agency issue bonds on its behalf.

Proposed Minnesota Rules 4900.3270 describes the process and conditions under which the Agency may issue bonds on behalf of cities. Subpart 2 makes it clear that the Agency may develop agreements which govern administrative procedures pertaining to programs funded with mortgage revenue bonds sold on behalf of cities. The Agency has carefully developed procedures for its own bond programs to meet the requirements of state and federal law as well as to prudently address Agency financial risk. It is anticipated that such procedures will not hinder the development and implementation of city programs. The rule makes clear that the Agency shall attempt to facilitate such programs.

Proposed subparts 3 and 4 of Minnesota Rules 4900.3270 specify that the Agency may make the Homeownership Assistance Fund to cities participating under this part and clarify the application deposit refund process. Neither of these subparts is deemed to be controversial.

Proposed Minnesota Rules 4900.3290 describes the process that the cities must follow if they choose to issue bonds on their own behalf or under a joint powers agreement. This part is adapted directly from the statute and is not deemed to be controversial.

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

462A.06 subd 4 and 11

The agency shall have the general powers to

subd 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

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

~~Statement of need~~

SONAR

2-1-91 - called to find out if sent ~~SONAR~~ Teresa to LCRAR

left a message for Teresa

14.131

Teresa did not send ~~the SONAR~~ SONAR to the LCRAR - I told her the cite and asked her to send me a copy of the letter or memo when it was sent

MINNESOTA HOUSING FINANCE AGENCY

Celebrate MINNESOTA 1990

January 28, 1991

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 Single Family Mortgage Revenue Bond Authority

Dear Ms. Nolte:

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

The following materials are submitted to you for your review pursuant to Minnesota Rules, Part 2010:

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

The Agency did not publish a Notice of Intent to Solicit Outside Opinion in connection with this rule. No requests for a hearing were received during the 30 day comment period. The Agency did not receive any comments during the 30 day comment period, nor did it receive any requests from persons desiring notice of the date of submission of the proposed rule to the Attorney General. The adopted rules are the same as the Proposed rules.

Sincerely,

James J. Solem
Commissioner

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

Housing Finance Agency

STATE OF MINNESOTA

Office Memorandum

Date: February 4, 1990

To: Patricia Nolte

From: Terese Fritchman

Phone: 6-8837

Subject: Statements of Need and Reasonableness

I have send a copy of the Statement of Need and Reasonableness for both the Single Family Mortgage Revenue Bond Authority rule and the Mortgage Revenue Bonds for the Purchase of New Housing rule to the Legislative Committee to Review Administrative Rules.

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 24th day of January, 1991, 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 Single Family Mortgage Revenue Bond Authority 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 24th day of January, 1991.

Chairman

Attest by one other Board Member

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

RESOLUTION NO. MHFA 91-5

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO SINGLE FAMILY MORTGAGE REVENUE BOND AUTHORITY WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Single Famiy Mortgage Revenue Bond Authority 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 24th day of January, 1991.

Chairman

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 25th day of October, 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 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 Mortgage Revenue Bond Authority 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 25th day of October, 1990.

Robert A. Worthington
Chairman

Shirley Van Dyck
Attest by one other Board Member

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

RESOLUTION NO. MHFA 90-149

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO MORTGAGE REVENUE BOND AUTHORITY 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 Mortgage Revenue Bond Authority 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 25th day of October, 1990.

Chairman

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Single Family Mortgage Revenue Bond Authority

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.

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

(5)
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: December 14, 1990

James J. Solem
Commissioner

In the Matter of the Proposed Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Single Family Mortgage Revenue Bond Authority

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.

Terese M. Fritchman, 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 14th day of December, 1990.

That on the 14th day of December, 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.

Terese M. Fritchman

Terese M. Fritchman

Subscribed and sworn to before me this 14th day of December, 1990.

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

Mary Mieb

Notary Public

4900.3340 BUILDER SET ASIDE LIMITATIONS.

The agency may not make available, provide set asides, or commit to make available proceeds of mortgage revenue bonds for the exclusive use of builders or developers for loans to eligible purchasers of new housing except as provided in parts 4900.3320 and 4900.3330.

4900.3350 OTHER PROPERTY REQUIREMENTS.

The agency may make mortgage loans to finance the purchase of existing housing either inside or outside the metropolitan area immediately upon commencement of the origination period. After the first ten months of the origination period, the agency may make mortgage loans to finance the purchase of existing homes and new homes without regard to the restrictions contained in parts 4900.3320 and 4900.3330.

4900.3360 REPORTING.

The agency shall report to the chairs of the appropriate housing-related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage revenue bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price of homes financed, and steps taken to encourage loan activity as required in parts 4900.3320 and 4900.3330.

Housing Finance Agency

Proposed Permanent Rules Relating to Single Family Mortgage Revenue Bond Authority

Notice of Intent to Adopt a Rule Without a Public Hearing

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

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, 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: 14 December 1990

James J. Solem
Commissioner

Rules as Proposed (all new material)

4900.3200 SCOPE.

Parts 4900.3200 to 4900.3290 govern the allocation from the housing pool for single family housing programs submitted by cities to the agency as authorized by *Minnesota Statutes*, section 474A.061, subdivision 2a.

4900.3210 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3200 to 4900.3290 the following terms have the meanings given them.

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

Subp. 3. **Applicant.** "Applicant" means a city applying for mortgage revenue bond authority under parts 4900.3200 to 4900.3290.

Subp. 4. **Application.** "Application" means a submittal requesting mortgage revenue bond authority according to parts 4900.3200 to 4900.3290 as described in part 4900.3230.

Subp. 5. **City.** "City" means a city as defined in *Minnesota Statutes*, section 462C.02, subdivision 6.

Subp. 6. **Existing housing.** "Existing housing" means single family housing that either has been previously occupied before the first day of the origination period or has been available for occupancy for at least 12 months but has not been previously occupied.

Subp. 7. **Housing pool.** "Housing pool" means the pool into which the amount of the annual volume cap allocated to housing pursuant to *Minnesota Statutes*, section 474A.03, subdivision 1, is deposited.

Subp. 8. **Metropolitan area.** "Metropolitan area" means the Minneapolis-St. Paul Metropolitan Statistical Area as defined by the United States Department of Commerce, Bureau of the Census.

Subp. 9. **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. 10. **New construction, newly constructed housing, or new housing.** "New construction," "newly constructed housing," or "new housing" means single family housing that has not been previously occupied.

Subp. 11. **Origination period.** "Origination period" means the period that loans financed with the proceeds of mortgage revenue bonds are available for the purchase of single family housing. The origination period begins when financing actually becomes available to the borrowers for loans.

Subp. 12. **Program.** "Program" means program under part 4900.3220, subparts 1 to 7.

Subp. 13. **Recycling.** "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

Subp. 14. **Redevelopment area.** "Redevelopment area" means a compact and contiguous area within which the city finds by resolution that 70 percent of the parcels in the area are occupied buildings, streets, utilities, or other improvements and more than 25 percent of the buildings, not including out buildings, are structurally substandard to a degree requiring substantial renovation or clearance.

Subp. 15. **Single family housing.** "Single family housing" means one to four family dwelling units eligible to be financed from the proceeds of mortgage revenue bonds under federal law.

Subp. 16. **Structurally substandard.** "Structurally substandard" means containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light, ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors. The defects or deficiencies must be of sufficient total significance to justify substantial renovation or clearance.

4900.3220 ELIGIBLE PROGRAMS.

Subpart 1. **General program eligibility.** All applications for single family housing programs under *Minnesota Statutes*, section 474A.061, subdivision 2a, must be made by a city and must meet the requirements of this part.

Subp. 2. **Borrower income limits.** The adjusted income of borrowers receiving mortgage loans under eligible programs may not exceed the agency's income limits as determined under applicable administrative rule except as provided in this subpart. For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.

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.

In the metropolitan area, adjusted incomes of borrowers receiving mortgage loans under eligible programs may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the United States Department of Housing and Urban Development from time to time.

If the agency's income limits are lowered during the origination period, cities may use the income limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's income limits are raised during the origination period, cities may use the higher income limits for the duration of the origination period.

Subp. 3. **House price limits.** House price limits for homes that are security for mortgages under eligible programs may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limits for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 80 percent of the safe harbor limitation for existing housing if a subsidy is used to reduce the effective purchase price of the property to the above levels.

If the agency's house price limits are lowered during the origination period, cities may use the house price limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's house price limits are raised during the origination period, cities may use the higher house price limits for the duration of the origination period.

Cities requesting house price limits higher than the agency's house price limits must include data establishing the median purchase price in the city in the application. The data may be provided in the form of an independent study conducted by the city which reflects at least six months of real estate activity pertaining to closed house sales within the city during the previous 12-month period. Data may be accumulated from multiple listing services, appraisers or real estate agents, filings pertaining to closed real estate sales, records from the county auditor pertaining to real estate sales, or other sources that are demonstrated to provide accurate data pertaining to city real estate activity.

Subp. 4. **Limits on new construction in metropolitan area.** During the first ten months of an origination period, the agency or cities may not make mortgage loans for the purchase of newly constructed housing in the metropolitan area unless one of the following conditions is met:

A. The newly constructed housing is located in a redevelopment area and is replacing a structurally substandard structure or structures.

B. The new housing is located on a parcel purchased by the city or conveyed to the city under *Minnesota Statutes*, section 282.01, subdivision 1.

C. The new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of mortgage revenue bonds, in which federal, state, or local assistance is used to substantially improve the terms of financing or to substantially write down the purchase price of the new housing. A housing affordability initiative must meet one or more of the following criteria:

(1) The new construction program is accepted or designated under The United States Department of Housing and Urban Development (HUD) Affordable Housing Program or any successor program sponsored by HUD to encourage affordable, newly constructed housing.

(2) The program provides that financial resources other than those necessary to complete the mortgage revenue bond sale are applied to reduce the cost of the housing or improve the terms of the mortgage loans provided through the sale. A contribution greater than or equal to five percent of the purchase price of each newly constructed home to be financed with mortgage revenue bond proceeds must be provided to meet this criterion. The contributions may be provided either in whole or in part from federal, state, or local government resources or programs, private foundations, or the Federal Housing Finance Board.

(3) The program provides that the applicable local government authority in the jurisdiction in which the houses are to be constructed takes affirmative steps to relax regulation to result in greater housing affordability. The steps must demonstrably reduce the cost of the housing by at least five percent.

(4) The program supports the efforts of housing groups that support self-help or owner built housing initiatives in which at least 15 percent of the labor or materials or both needed to complete the construction of each house is acquired or donated through the efforts of such groups.

(5) The program provides that the housing is constructed by a nonprofit entity as defined in part 4900.0010, subpart 21, that has a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

Subp. 5. **Limits on new construction outside metropolitan area.** During the first ten months of an origination period, the agency or cities may make mortgage loans for the purchase of existing housing or newly constructed housing in areas outside the metropolitan area. A city must include in its application a description, if applicable, of the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing as opposed to new housing. The steps may include, but are not limited to, the conditions in subpart 4.

Subp. 6. **Builder set aside limits.** The agency or cities may not make available, provide set asides, or commit to make available

proceeds of mortgage revenue bonds for the exclusive use of builders or developers for loans to eligible purchasers of new housing except as provided in subparts 4 and 5.

Subp. 7. **Other property requirements.** The agency or cities may make mortgage loans to finance the purchase of existing housing both in and outside the metropolitan area immediately upon commencement of the origination period. After the first ten months of the origination period, the agency or cities may make mortgage loans to finance the purchase of existing homes and new construction without regard to the restrictions contained in subparts 4 and 5.

Subp. 8. **Reporting.** The agency and any city that provides funds for new housing financed with the proceeds of mortgage revenue bonds shall report to the chairs of the appropriate housing related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage revenue bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price of homes financed, and steps taken to encourage loan activity as required in subpart 5.

4900.3230 APPLICATION FOR MORTGAGE REVENUE BOND AUTHORITY.

Subpart 1. **General.** Cities may apply to the agency for mortgage revenue bond authority from the housing pool as established under *Minnesota Statutes*, chapter 474A, as provided in subparts 2 and 3. Upon application and selection for mortgage revenue bond authority, cities may elect to either issue mortgage revenue bonds for eligible programs on their own behalf or through joint powers agreements, or have the agency issue bonds on their behalf.

Subp. 2. **Application period.** In the event that bonding authority is available in the housing pool on the dates prescribed, cities may submit applications to the agency for single family mortgage revenue bond authority for eligible programs after April 1 and until April 15, and after July 1 and until July 15, of each year.

Subp. 3. **Application requirements.** Cities that wish to apply for single family mortgage revenue bond authority may do so by providing the information described in this subpart. The agency may develop a form and format by which the information may be provided, but also will accept submittals from cities that do not meet the agency developed form and format and meet the requirements of this subpart.

A. The city may submit a housing plan as described in *Minnesota Statutes*, section 462C.03, subdivisions 1 and 1a, or may submit an application on a form developed by the agency which describes the program and demonstrates that the program meets a locally identified housing need and is economically viable.

B. The city must provide information which clearly establishes that the program to be funded with mortgage revenue bonds meets the requirements of part 4900.3220, subparts 2 to 7.

C. The city must request a specific allocation from the housing pool which may not exceed the lesser of $4,000,000 or 20 percent of the total amount available for allocation after the first Monday in April. The minimum allocation that may be requested shall be $250,000.

D. The city must describe, if applicable, the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing before new housing under the conditions in part 4900.3220, subpart 5.

E. The city must submit an application deposit equal to one percent of the requested allocation from the housing pool.

4900.3250 APPLICANT SELECTION.

Subpart 1. **Negotiations of allocation.** Within a reasonable period after the application periods specified in part 4900.3230, subpart 2, but in no circumstances later than 30 days after the end of an application period, the agency shall convene a meeting to allocate the available funds from the housing pool. Before the meeting, applicants shall designate their representatives to the meeting in writing to the agency. At the meeting, the agency and a representative for each applicant shall negotiate the terms of an agreement regarding the available bonding authority among the applicants. The agreement must allot available bonding authority among the applicants. At the meeting, the agency and a representative for each applicant may discuss matters pertaining to the terms under which the agency would issue bonds on behalf of cities.

Subp. 2. **Notification to finance commissioner.** Upon the establishment of an agreement with cities, the agency shall forward to the commissioner of finance the amounts allotted to each applicant under the agreement. The agency shall also forward the application fee. A copy of the agreement forwarded to the commissioner of finance shall be sent to each applicant.

Subp. 3. **Designation of issuance.** Upon the establishment of the agreement in subpart 1, the city must designate within 15 days

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.

of the date of the agreement whether it plans to issue mortgage revenue bonds on its own behalf or through a joint powers agreement, or whether it plans to ask the agency to issue mortgage revenue bonds on its behalf. If the city does not choose to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3290. If the city plans to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3270.

4900.3270 AGENCY ISSUANCE ON BEHALF OF CITIES.

Subpart 1. **Agency bond issuance.** The agency may issue bonds on behalf of participating cities pursuant to part 4900.3250, subpart 3. The agency shall request an allocation from the commissioner of finance for all cities who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August.

Subp. 2. **Program administration.** The agency may develop agreements which govern administrative procedures pertaining to programs funded with mortgage revenue bonds sold on behalf of cities. The agreements may govern matters including, but not limited to, local lender participation, mortgage servicing and servicers, mortgage processing and underwriting, and the period of time that funds may remain exclusively available to participating cities. In developing the agreements, the agency shall attempt to facilitate city programs while prudently addressing agency credit risk.

Subp. 3. **Homeownership assistance fund.** The agency may make the homeownership assistance fund as described in parts 4900.1300 to 4900.1390 available to cities participating under this part.

Subp. 4. **Application deposit refund.** Any application deposits returned to the agency pursuant to *Minnesota Statutes*, section 474A.061, subdivision 4, or 474A.131, subdivision 1, shall be forwarded by the agency to the appropriate city.

4900.3290 CITY ISSUANCE ON ITS OWN BEHALF.

Subpart 1. **City bond issuance.** A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner of finance. If the total amount requested by all applicants exceeds the amount available in the housing pool, the city may not receive a greater amount than it would have received under the agreement forwarded by the agency to the commissioner. No city may request or receive an allocation under this subpart until the agreement under part 4900.3250, subpart 1, has been forwarded to the commissioner. Between the first Monday in April and the last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the agency. The commissioner of finance shall allocate the requested amount to the city or cities subject to the limits under this subpart.

Subp. 2. **Recycling.** If a city issues mortgage revenue bonds from an allocation under this part, the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner of finance in writing of the reason that recycling was not possible and the reason the issuer elected not to have the agency issue the bonds.

Department of Human Services

Proposed Permanent Rules Relating to Rehabilitation and Therapeutic Services

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the Department of Human Services, Rooms 1A and 1B, 444 Lafayette Road, St. Paul, MN 55155 on January 18, 1991 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Peter Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7606, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge, may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, section 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.01 to 14.56 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Housing Finance Agency

Proposed Permanent Rules Relating to Single Family Mortgage Revenue Bond Authority

Rules as Proposed (all new material)

4900.3200 SCOPE.

Parts 4900.3200 to 4900.3290 govern the allocation from the housing pool for single family housing programs submitted by cities to the agency as authorized by Minnesota Statutes, section 474A.061, subdivision 2a.

4900.3210 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3200 to 4900.3290 the following terms have the meanings given them.

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

Subp. 3. **Applicant.** "Applicant" means a city applying for mortgage revenue bond authority under parts 4900.3200 to 4900.3290.

Subp. 4. **Application.** "Application" means a submittal requesting mortgage revenue bond authority according to parts 4900.3200 to 4900.3290 as described in part 4900.3230.

Subp. 5. **City.** "City" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 6. **Existing housing.** "Existing housing" means single family housing that either has been previously occupied before the first day of the origination period or has been available for occupancy for at least 12 months but has not been previously occupied.

Subp. 7. **Housing pool.** "Housing pool" means the pool into which the amount of the annual volume cap allocated to housing pursuant to Minnesota Statutes, section 474A.03, subdivision 1, is deposited.

Subp. 8. **Metropolitan area.** "Metropolitan area" means the Minneapolis-St. Paul Metropolitan Statistical Area as defined by

Approved by Revisor

the United States Department of Commerce, Bureau of the Census.

Subp. 9. **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. 10. **New construction, newly constructed housing, or new housing.** "New construction," "newly constructed housing," or "new housing" means single family housing that has not been previously occupied.

Subp. 11. **Origination period.** "Origination period" means the period that loans financed with the proceeds of mortgage revenue bonds are available for the purchase of single family housing. The origination period begins when financing actually becomes available to the borrowers for loans.

Subp. 12. **Program.** "Program" means program under part 4900.3220, subparts 1 to 7.

Subp. 13. **Recycling.** "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

Subp. 14. **Redevelopment area.** "Redevelopment area" means a compact and contiguous area within which the city finds by resolution that 70 percent of the parcels in the area are occupied buildings, streets, utilities, or other improvements and more than 25 percent of the buildings, not including out buildings, are structurally substandard to a degree requiring substantial renovation or clearance.

Subp. 15. **Single family housing.** "Single family housing" means one to four family dwelling units eligible to be financed from the proceeds of mortgage revenue bonds under federal law.

Subp. 16. **Structurally substandard.** "Structurally substandard" means containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light, ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors. The defects or deficiencies must be of

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sufficient total significance to justify substantial renovation or clearance.

4900.3220 ELIGIBLE PROGRAMS.

Subpart 1. **General program eligibility.** All applications for single family housing programs under Minnesota Statutes, section 474A.061, subdivision 2a, must be made by a city and must meet the requirements of this part.

Subp. 2. **Borrower income limits.** The adjusted income of borrowers receiving mortgage loans under eligible programs may not exceed the agency's income limits as determined under applicable administrative rule except as provided in this subpart. For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.

In the metropolitan area, adjusted incomes of borrowers receiving mortgage loans under eligible programs may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the United States Department of Housing and Urban Development from time to time.

If the agency's income limits are lowered during the origination period, cities may use the income limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's income limits are raised during the origination period, cities may use the higher income limits for the duration of the origination period.

Subp. 3. **House price limits.** House price limits for homes that are security for mortgages under eligible programs may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limits for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 80 percent of the safe harbor limitation for existing housing if a subsidy is used to reduce the effective purchase price of the property to the above levels.

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If the agency's house price limits are lowered during the origination period, cities may use the house price limits in effect at the time the bonds were issued for the duration of the origination period. If the agency's house price limits are raised during the origination period, cities may use the higher house price limits for the duration of the origination period.

Cities requesting house price limits higher than the agency's house price limits must include data establishing the median purchase price in the city in the application. The data may be provided in the form of an independent study conducted by the city which reflects at least six months of real estate activity pertaining to closed house sales within the city during the previous 12-month period. Data may be accumulated from multiple listing services, appraisers or real estate agents, filings pertaining to closed real estate sales, records from the county auditor pertaining to real estate sales, or other sources that are demonstrated to provide accurate data pertaining to city real estate activity.

Subp. 4. **Limits on new construction in metropolitan area.** During the first ten months of an origination period, the agency or cities may not make mortgage loans for the purchase of newly constructed housing in the metropolitan area unless one of the following conditions is met:

A. The newly constructed housing is located in a redevelopment area and is replacing a structurally substandard structure or structures.

B. The new housing is located on a parcel purchased by the city or conveyed to the city under Minnesota Statutes, section 282.01, subdivision 1.

C. The new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of mortgage revenue bonds, in which federal, state, or local assistance is used to substantially improve the terms of financing or to substantially write down the purchase price of the new housing. A housing affordability initiative must meet one or more of the following criteria:

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(1) The new construction program is accepted or designated under The United States Department of Housing and Urban Development (HUD) Affordable Housing Program or any successor program sponsored by HUD to encourage affordable, newly constructed housing.

(2) The program provides that financial resources other than those necessary to complete the mortgage revenue bond sale are applied to reduce the cost of the housing or improve the terms of the mortgage loans provided through the sale. A contribution greater than or equal to five percent of the purchase price of each newly constructed home to be financed with mortgage revenue bond proceeds must be provided to meet this criterion. The contributions may be provided either in whole or in part from federal, state, or local government resources or programs, private foundations, or the Federal Housing Finance Board.

(3) The program provides that the applicable local government authority in the jurisdiction in which the houses are to be constructed takes affirmative steps to relax regulation to result in greater housing affordability. The steps must demonstrably reduce the cost of the housing by at least five percent.

(4) The program supports the efforts of housing groups that support self-help or owner built housing initiatives in which at least 15 percent of the labor or materials or both needed to complete the construction of each house is acquired or donated through the efforts of such groups.

(5) The program provides that the housing is constructed by a nonprofit entity as defined in part 4900.0010, subpart 21, that has a primary purpose the provision or development of affordable housing to low and moderate income homebuyers.

Subp. 5. **Limits on new construction outside metropolitan area.** During the first ten months of an origination period, the agency or cities may make mortgage loans for the purchase of existing housing or newly constructed housing in areas outside

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the metropolitan area. A city must include in its application a description, if applicable, of the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing as opposed to new housing. The steps may include, but are not limited to, the conditions in subpart 4.

Subp. 6. **Builder set aside limits.** The agency or cities may not make available, provide set asides, or commit to make available proceeds of mortgage revenue bonds for the exclusive use of builders or developers for loans to eligible purchasers of new housing except as provided in subparts 4 and 5.

Subp. 7. **Other property requirements.** The agency or cities may make mortgage loans to finance the purchase of existing housing both in and outside the metropolitan area immediately upon commencement of the origination period. After the first ten months of the origination period, the agency or cities may make mortgage loans to finance the purchase of existing homes and new construction without regard to the restrictions contained in subparts 4 and 5.

Subp. 8. **Reporting.** The agency and any city that provides funds for new housing financed with the proceeds of mortgage revenue bonds shall report to the chairs of the appropriate housing related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage revenue bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price of homes financed, and steps taken to encourage loan activity as required in subpart 5.

4900.3230 APPLICATION FOR MORTGAGE REVENUE BOND AUTHORITY.

Subpart 1. **General.** Cities may apply to the agency for mortgage revenue bond authority from the housing pool as established under Minnesota Statutes, chapter 474A, as provided in subparts 2 and 3. Upon application and selection for mortgage revenue bond authority, cities may elect to either issue mortgage revenue bonds for eligible programs on their own

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behalf or through joint powers agreements, or have the agency issue bonds on their behalf.

Subp. 2. **Application period.** In the event that bonding authority is available in the housing pool on the dates prescribed, cities may submit applications to the agency for single family mortgage revenue bond authority for eligible programs after April 1 and until April 15, and after July 1 and until July 15, of each year.

Subp. 3. **Application requirements.** Cities that wish to apply for single family mortgage revenue bond authority may do so by providing the information described in this subpart. The agency may develop a form and format by which the information may be provided, but also will accept submittals from cities that do not meet the agency developed form and format and meet the requirements of this subpart.

A. The city may submit a housing plan as described in Minnesota Statutes, section 462C.03, subdivisions 1 and 1a, or may submit an application on a form developed by the agency which describes the program and demonstrates that the program meets a locally identified housing need and is economically viable.

B. The city must provide information which clearly establishes that the program to be funded with mortgage revenue bonds meets the requirements of part 4900.3220, subparts 2 to 7.

C. The city must request a specific allocation from the housing pool which may not exceed the lesser of $4,000,000 or 20 percent of the total amount available for allocation after the first Monday in April. The minimum allocation that may be requested shall be $250,000.

D. The city must describe, if applicable, the steps it will initiate in nonmetropolitan areas to encourage loans for existing housing before new housing under the conditions in part 4900.3220, subpart 5.

E. The city must submit an application deposit equal to one percent of the requested allocation from the housing pool.

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4900.3250 APPLICANT SELECTION.

Subpart 1. **Negotiations of allocation.** Within a reasonable period after the application periods specified in part 4900.3230, subpart 2, but in no circumstances later than 30 days after the end of an application period, the agency shall convene a meeting to allocate the available funds from the housing pool. Before the meeting, applicants shall designate their representatives to the meeting in writing to the agency. At the meeting, the agency and a representative for each applicant shall negotiate the terms of an agreement regarding the available bonding authority among the applicants. The agreement must allot available bonding authority among the applicants. At the meeting, the agency and a representative for each applicant may discuss matters pertaining to the terms under which the agency would issue bonds on behalf of cities.

Subp. 2. **Notification to finance commissioner.** Upon the establishment of an agreement with cities, the agency shall forward to the commissioner of finance the amounts allotted to each applicant under the agreement. The agency shall also forward the application fee. A copy of the agreement forwarded to the commissioner of finance shall be sent to each applicant.

Subp. 3. **Designation of issuance.** Upon the establishment of the agreement in subpart 1, the city must designate within 15 days of the date of the agreement whether it plans to issue mortgage revenue bonds on its own behalf or through a joint powers agreement, or whether it plans to ask the agency to issue mortgage revenue bonds on its behalf. If the city does not choose to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3290. If the city plans to have the agency issue bonds on its behalf, it shall proceed according to part 4900.3270.

4900.3270 AGENCY ISSUANCE ON BEHALF OF CITIES.

Subpart 1. **Agency bond issuance.** The agency may issue bonds on behalf of participating cities pursuant to part 4900.3250, subpart 3. The agency shall request an allocation

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from the commissioner of finance for all cities who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August.

Subp. 2. **Program administration.** The agency may develop agreements which govern administrative procedures pertaining to programs funded with mortgage revenue bonds sold on behalf of cities. The agreements may govern matters including, but not limited to, local lender participation, mortgage servicing and servicers, mortgage processing and underwriting, and the period of time that funds may remain exclusively available to participating cities. In developing the agreements, the agency shall attempt to facilitate city programs while prudently addressing agency credit risk.

Subp. 3. **Homeownership assistance fund.** The agency may make the homeownership assistance fund as described in parts 4900.1300 to 4900.1390 available to cities participating under this part.

Subp. 4. **Application deposit refund.** Any application deposits returned to the agency pursuant to Minnesota Statutes, section 474A.061, subdivision 4, or 474A.131, subdivision 1, shall be forwarded by the agency to the appropriate city.

4900.3290 CITY ISSUANCE ON ITS OWN BEHALF.

Subpart 1. **City bond issuance.** A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner of finance. If the total amount requested by all applicants exceeds the amount available in the housing pool, the city may not receive a greater amount than it would have received under the agreement forwarded by the agency to the commissioner. No city may request or receive an allocation under this subpart until the agreement under part 4900.3250, subpart 1, has been forwarded to the commissioner. Between the first Monday in April and the

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last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the agency. The commissioner of finance shall allocate the requested amount to the city or cities subject to the limits under this subpart.

Subp. 2. **Recycling.** If a city issues mortgage revenue bonds from an allocation under this part, the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner of finance in writing of the reason that recycling was not possible and the reason the issuer elected not to have the agency issue the bonds.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Single Family Mortgage Revenue Bond Authority

AGENCY: Housing Finance Agency

MINNESOTA RULES: Chapter 4900

RECEIVED
DEC 1990
STATE HOUSING
FINANCE AGENCY

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 Adoption of the Rule of the Minnesota Housing Finance Agency Governing the Single Family Mortgage Revenue Bond Authority	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on December 17, 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 December 14, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

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

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

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

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

NOW, THEREFORE, IT IS ORDERED (8) that the rule identified as 4900.3200 - 4900.3290 is adopted this January 24, 1991, pursuant to authority vested in the Agency by Minnesota Statutes, sections 462A.06, subd. 4 and 11.

(9)

James J. Solem, Commissioner

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Single Family
Mortgage Revenue Bond Authority

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.

Wm H. Kuretsky

William H. Kuretsky
Special Assistant Attorney General

Dated: January 24, 1991