

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 mjc

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to
Mortgage Revenue Bonds for the Purchase of New Housing

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. 1790
DATE RECEIVED 1-30-91
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WITHDRAWN _____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 Subd 4 amended Statutory Authority
_____ Small Business Statement
_____ Expenditure of public money statement
December 14, 1990 Signature

✓ Statement of Need and Reasonableness (if applicable)
NA ✓ 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:
✓ 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
Bill Kuretsky Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing

Minnesota Housing Finance Agency

Adopted Permanent Rules Relating to Mortgage Revenue Bonds for the Purchase of New Housing

Rules as Adopted

4900.3300 SCOPE.

Parts 4900.3300 to 4900.3360 govern the financing of new housing under the agency's mortgage revenue bond programs to finance the purchase of single family housing.

4900.3310 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3300 to 4900.3360, the following terms have the meanings given them.

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

Subp. 3. **City.** "City" means a city as defined in Minnesota Statutes, section 462C.02, subdivision 6.

Subp. 4. **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. 5. **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, or other area specified in Minnesota Statutes, section 474A.048, subdivision 1.

Subp. 6. **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. 7. **New housing.** "New housing" means single family housing that has not been previously occupied.

Subp. 8. **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. 9. **Program.** "Program" means a program under parts 4900.3320 to 4900.3360.

Subp. 10. **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 outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

Subp. 11. **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. 12. **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.

4900.3320 LIMITATIONS ON NEW CONSTRUCTION; METROPOLITAN AREA.

During the first ten months of an origination period, the agency may not make mortgage loans for the purchase of new housing in the metropolitan area unless one of the conditions in items A to C is met.

A. The new 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 a city or conveyed to a 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 criteria in subitems (1) to (5).

(1) The 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 new 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 contribution 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 new housing is 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 new housing is acquired or donated through the efforts of such groups.

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

homebuyers.

4900.3330 LIMITATIONS ON NEW CONSTRUCTION; OUTSIDE METROPOLITAN AREA.

During the first ten months of an origination period, the agency may make mortgage loans for the purchase of existing housing or new housing in areas outside the metropolitan area. If mortgage loans are provided for new housing outside the metropolitan area during the first ten months of an origination period, the agency must determine that a need for new housing exists either in the entire area or in specific counties, cities, or other geographic areas by reviewing pertinent data including, but not limited to, economic development and employment growth trends, housing starts, and mortgage activity and interest rates. If mortgage loans for new housing are to be provided, the house price limits for the housing may not be more than $10,000 higher than the house price limits for existing housing regardless of the variance that may be allowed in federal law pertaining to mortgage revenue bonds. The agency may also provide mortgage loans for new housing outside the metropolitan area under the conditions in part 4900.3320 without regard to the preceding conditions in this part.

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.

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

APPROVED AS TO FORM AND LEGALITY

February 11 1991

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 Mortgage Revenue Bonds
for the Purchase of New Housing

Statement of Need and Reasonableness

4900.3320 through 4900.3360:

Minnesota Statutes Section 474A.408 establishes limitations on the use of mortgage revenue bonds for cities and the Agency to finance the purchase of newly constructed homes. The proposed rules have been developed under the above referenced statute to address Agency mortgage revenue bond programs.

Proposed Minnesota Rules 4900.3310, subparts 1 through 12, provide definitions under these rules. The definitions provided were either taken directly from the applicable statute or 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 4900.3320 imposes limits on newly constructed homes in the Twin Cities Metropolitan area. Minnesota Rules 4900.3320, A and B is taken almost directly from the statute. Minnesota Rules 4900.3320 C(1) through (5) has been provided the specify acceptable housing affordability initiatives for eligible programs as contemplated in the statute. 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 from the Agency and other sources must be made to facilitate these activities.

Proposed Minnesota Rules 4900.3330 imposes limitations on new construction outside the Twin Cities Metropolitan Statistical Area. The statute provides that the Agency should encourage loans for existing housing as opposed to new housing outside the Twin Cities Metropolitan area, but does not impose the specific restrictions on newly constructed homes as it does in the Twin Cities Metropolitan Statistical Area. In light of this, the Agency allows mortgage loans on newly constructed homes under the same conditions specified in part 4900.3320, but also allows new construction under other circumstances. In such cases, the Agency must determine that a need for new housing exists either in the entire area or in specific counties, cities, or other geographic areas by reviewing pertinent data including, but not limited to, economic development and employment growth trends, housing starts, and mortgage activity and interest rates. However, even if such factors demonstrate a need for newly constructed homes, the Agency provides that the house price limits for housing in these areas may not be more than $10,000 higher than the house price limits for existing housing regardless of the variance that may be allowed in federal law pertaining to mortgage revenue bonds. This recognizes the fact that limits for newly

constructed homes under federal law are sometimes higher than the limits for existing housing. The restriction of the variance further meets the objectives of the statute.

Proposed Minnesota Rules 4900.3340 through 4900.3360 either provide material directly from the statute or clarify the intent of the statute. None of the material contained in these parts is deemed to be controversial.

The Agency is cognizant of the provisions of section 14.115 of the 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 Chapter 14 respecting mortgage lending const.

2-1-91 left a message for Teresa - Housing Finance
SONAR LCRAR 14.131

Did not send it to LCRAR
said she would send it
and would send me a
letter or memo indicating
she sent it

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.

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 Mortgage Revenue Bonds for the Purchase of New Housing

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

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 Mortgage Revenue Bonds for the Purchase of New Housing 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.

Robert A. Worthington
Chairman

Demetrius D. Jolatis
Attest by one other Board Member

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

RESOLUTION NO. MHFA 91-4

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO MORTGAGE REVENUE BONDS FOR THE PURCHASE OF NEW HOUSING WITHOUT A PUBLIC HEARING

BE IT RESOLVED BY THE MINNESOTA HOUSING FINANCE AGENCY:

That the rule relating to Mortgage Revenue Bonds for the Purchase of New Housing 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 Loans for the Purchase of New Housing 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

Attest by one other Board Member

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

RESOLUTION NO. MHFA 90-150

RESOLUTION AUTHORIZING ADOPTION OF RULES RELATING TO MORTGAGE REVENUE BOND LOANS FOR THE PURCHASE OF NEW HOUSING 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 Loans for the Purchase of New Housing 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 Mortgage Revenue Bonds for the Purchase of New Housing

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: 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 Mortgage Revenue Bonds for the Purchase of New Housing

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 December 14, 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 HEB
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES OCTOBER 29, 1995

Mary Heb

Notary Public

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 Mortgage Revenue Bonds for the Purchase of New Housing

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 that the rule identified as 4900.3300 - 4900.3360 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

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Mortgage Revenue Bonds for the Purchase of New Housing

Rules as Proposed (all new material)

4900.3300 SCOPE.

Parts 4900.3300 to 4900.3360 govern the financing of new housing under the agency's mortgage revenue bond programs to finance the purchase of single family housing.

4900.3310 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3300 to 4900.3360, the following terms have the meanings given them.

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Subp. 4. **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. 5. **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, or other area specified in Minnesota Statutes, section 474A.048, subdivision 1.

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Subp. 8. **Origination period.** "Origination period" means the period that loans financed with the proceeds of mortgage

Approved by Revisor

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. 9. **Program.** "Program" means a program under parts 4900.3320 to 4900.3360.

Subp. 10. **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 outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

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

C. The new housing is part of a housing affordability

Approved
by Revisor _____

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 criteria in subitems (1) to (5).

(1) The 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 new 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 contribution 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 new housing is 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 new housing is acquired or donated through the efforts of such groups.

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

Approved
by Revisor _____

homebuyers.

4900.3330 LIMITATIONS ON NEW CONSTRUCTION; OUTSIDE METROPOLITAN AREA.

During the first ten months of an origination period, the agency may make mortgage loans for the purchase of existing housing or new housing in areas outside the metropolitan area. If mortgage loans are provided for new housing outside the metropolitan area during the first ten months of an origination period, the agency must determine that a need for new housing exists either in the entire area or in specific counties, cities, or other geographic areas by reviewing pertinent data including, but not limited to, economic development and employment growth trends, housing starts, and mortgage activity and interest rates. If mortgage loans for new housing are to be provided, the house price limits for the housing may not be more than $10,000 higher than the house price limits for existing housing regardless of the variance that may be allowed in federal law pertaining to mortgage revenue bonds. The agency may also provide mortgage loans for new housing outside the metropolitan area under the conditions in part 4900.3320 without regard to the preceding conditions in this part.

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

Approved
by Revisor _____

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.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Mortgage Revenue Bonds for the Purchase of New Housing

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Any person may make a written request for public hearing within the 30 days 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*, sections 14.13 to 14.20.

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

Patricia L. Peterson
Director of Registration
Department of Commerce
133 East Seventh Street
St. Paul, Minnesota 55101
(612) 296-2284

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 Patricia Peterson.

Pursuant to *Minnesota Statutes* Section 14.155, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

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 Patricia Peterson.

Thomas H. Borman
Commissioner of Commerce

Rules as Proposed

2860.4400 UNFAIR AND INEQUITABLE PRACTICES.

All franchise contracts or agreements and any other device or practice of a franchisor, shall conform to the following provisions. It shall be unfair and inequitable for any person to:

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

J. require a franchisee to waive his or her rights to a jury trial or to waive rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or to consent to liquidated damages, termination penalties, or judgment notes; provided~~,~~ that ~~the franchise agreement may contain~~ this part shall not bar an exclusive arbitration clause ~~if the agreement allows the franchisee to opt out of the requirements of the clause~~;

[For text of items K to M, see M.R.]

Minnesota Housing Finance Agency

Proposed Permanent Rules Relating to Mortgage Revenue Bonds for the Purchase of New Housing

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.

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.

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)

4900.3300 SCOPE.

Parts 4900.3300 to 4900.3360 govern the financing of new housing under the agency's mortgage revenue bond programs to finance the purchase of single family housing.

4900.3310 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.3300 to 4900.3360, the following terms have the meanings given them.

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

Subp. 3. **City.** "City" means a city as defined in *Minnesota Statutes*, section 462C.02, subdivision 6.

Subp. 4. **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. 5. **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, or other area specified in *Minnesota Statutes*, section 474A.048, subdivision 1.

Subp. 6. **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. 7. **New housing.** "New housing" means single family housing that has not been previously occupied.

Subp. 8. **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. 9. **Program.** "Program" means a program under parts 4900.3320 to 4900.3360.

Subp. 10. **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 outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

Subp. 11. **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. 12. **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.

4900.3320 LIMITATIONS ON NEW CONSTRUCTION; METROPOLITAN AREA.

During the first ten months of an origination period, the agency may not make mortgage loans for the purchase of new housing in the metropolitan area unless one of the conditions in items A to C is met.

A. The new 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 a city or conveyed to a 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 criteria in subitems (1) to (5).

(1) The 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 new 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 contribution 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 new housing is 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 new housing is acquired or donated through the efforts of such groups.

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

4900.3330 LIMITATIONS ON NEW CONSTRUCTION; OUTSIDE METROPOLITAN AREA.

During the first ten months of an origination period, the agency may make mortgage loans for the purchase of existing housing or new housing in areas outside the metropolitan area. If mortgage loans are provided for new housing outside the metropolitan area during the first ten months of an origination period, the agency must determine that a need for new housing exists either in the entire area or in specific counties, cities, or other geographic areas by reviewing pertinent data including, but not limited to, economic development and employment growth trends, housing starts, and mortgage activity and interest rates. If mortgage loans for new housing are to be provided, the house price limits for the housing may not be more than $10,000 higher than the house price limits for existing housing regardless of the variance that may be allowed in federal law pertaining to mortgage revenue bonds. The agency may also provide mortgage loans for new housing outside the metropolitan area under the conditions in part 4900.3320 without regard to the preceding conditions in this part.

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.

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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

In the Matter of the Adoption
of the Rule of the Minnesota
Housing Finance Agency
Governing the Mortgage Revenue
Bonds for the Purchase of New
Housing

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