

4900.0010 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in the act, known as the Minnesota housing finance agency law of 1971, have the same meanings when used in these rules as are ascribed to them in the act.

Subp. 2. **Act.** "Act" means the Minnesota Housing Finance Agency Law of 1971 in Minnesota Statutes 1971, chapter 462A, as now in effect and as from time to time amended.

Subp. 3. **Adjusted income.** "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents age 18 and over, of a housing unit, after deducting the following:

- A. an amount equal to \$1,000 for each resident of the housing unit; and
- B. extraordinary medical or other expenses as the commissioner approves for exclusion.

Subp. 4. **Administering entity.** "Administering entity" means a nonprofit or governmental entity, including but not limited to an incorporated county or municipality, a housing redevelopment authority, and a community action organization, which enters into a contract with the agency for the local administration of the home improvement grant or rehabilitation loan program pursuant to parts 4900.0610 to 4900.0700.

Subp. 5. **Approved mortgagee.** "Approved mortgagee" means an individual, partnership, corporation, or other business entity that has been approved by the United States Department of Housing and Urban Development.

Subp. 6. **Builder.** "Builder" means a person or entity engaged in the business of housing construction who meets all licensing and other requirements of applicable laws, ordinances, and regulations; who possesses satisfactory experience and credit worthiness; and who will enter into an agreement satisfactory to the agency to sell or rent the residential housing constructed in whole or in part from the proceeds of an agency loan to persons and families of low and moderate income.

Subp. 7. **Capital contribution of the investors.**

A. "Capital contribution of the investors" means the excess of the value of the project at the times and in the manner determined by the agency, whether or not paid in cash, over the then current principal amount of the agency's loan:

- (1) for those developments that:
 - (a) have adequate reserves as determined by the agency;
 - (b) all needed maintenance, as determined by the agency, has either been performed or is scheduled to be performed;

(c) during the next 12-month period will require no major repairs or replacements, as determined by the agency, the payment of which would reduce the reserve accounts below an amount determined by the agency;

(d) the operating expenses are paid in full;

(e) have operating account balances equal to or greater than one month's total operating expenses;

(f) have sustained an average occupancy by rent paying tenants of 95 percent or more for the prior 24 months;

(g) have a current waiting list equal to at least 1-1/2 times the annual turnover for the prior 24 months, but the requirements of this unit are not applicable to developments that have reserves equal to or exceeding the sum that is the greater of \$5,000 per dwelling unit or 30 percent of the outstanding principal balance of the mortgage;

(h) the mortgage has not been delinquent during the prior 24 months;

(i) the owner agrees to limit future rent increases to the amount needed to pay for increases in annual operating expenses which includes return on equity and the maintenance of adequate reserves as determined by the agency;

(j) the owner agrees to maintain the development as Section 8 or Section 236 assisted housing for a minimum of 20 years from the effective date of the Housing Assistance Payments Contract or Agreement for Interest Reduction Payments, if one exists, and the minimum 20-year term has not yet expired and in excess of five years remain prior to its expiry date; and

(k) the owner agrees to execute any documents that the agency deems necessary and appropriate to effectuate the intent of this definition;

(2) for those developments that:

(a) meet the requirements of subitem (1), units (a) to (e), (h), and (i);

(b) have a current waiting list equal to at least 1-1/2 times the annual turnover for the prior 24 months, but the requirements of this unit are not applicable to developments that:

i. have sustained an average occupancy of rent paying tenants of 95 percent or more for the prior 24 months, and have reserves equal to or exceeding the sum that is the greater of \$5,000 per dwelling unit or 30 percent of the outstanding principal balance of the mortgage; or

ii. have reserves equal to or exceeding the sum that is the greater of 40 percent of the outstanding principal balance of the mortgage or \$5,000 per unit;

(c) have sustained an average occupancy of rent-paying tenants of 95 percent or more for the prior 24 months, but the requirements of this unit are not applicable to developments that have reserves equal to or exceeding the sum that is the greater of 40 percent of the outstanding principal balance of the mortgage or \$5,000 per unit;

(d) the owner agrees to maintain the development as Section 8 or Section 236 assisted housing according to the following:

i. as to Section 8 assisted housing, to the date which is the later of: (i) ten years from the date of execution of legal documents which meet the requirements of this subitem, or (ii) the date of the end of the five-year optional renewal term of any Section 8 Housing Assistance Payments Contract benefiting the development existent at the date of expiration of the ten-year term identified in clause (i); and

ii. as to Section 236 assisted housing, the owner agrees to maintain the development as Section 236 assisted housing until the date which is ten years after the date of execution of legal documents for developments which meet the requirements of this subitem.

(e) as to both Section 8 and Section 236 assisted housing, the owner agrees not to prepay its mortgage with the agency for ten years from the date of execution of legal documents for developments which meet the requirements of this subitem; and

(f) the owner agrees to execute any documents that the agency deems necessary and appropriate to effectuate the intent of this subitem, which shall include an agreement by the agency that the owner shall be entitled to cumulative dividends; or

(3) for those developments that:

(a) are subject to an agency-financed first mortgage but do not receive federal assistance pursuant to a project-based Section 8 or Section 236 contract;

(b) meet the requirements of subitem (1), units (a) to (e), (h), (i), and (k);

(c) the owner agrees not to prepay its mortgage with the agency for ten years from the date of execution of legal documents for developments which meet the requirements of this subitem; and

(d) have sustained an average occupancy of rent-paying tenants of 95 percent or more for the prior 24 months, but the requirements of this unit are not applicable to developments that have reserves equal to or exceeding the sum that is the greater of 40 percent of the outstanding principal balance of the mortgage or \$5,000 per unit.

B. "Capital contribution of the investors" means the excess of the total development cost of the project as determined by the agency, whether or not paid in cash,

over the original principal amount of the agency's loan for developments not meeting the requirements of item A, subitem (1) or (2).

Subp. 7a. **Commissioner.** "Commissioner" means the commissioner employed by the agency, who is the chief administrative officer of the agency.

Subp. 8. **Cooperative housing corporation.** "Cooperative housing corporation" means and refers to those corporations which qualify as cooperative housing corporations pursuant to section 216 of the Internal Revenue Code of 1954, as amended.

Subp. 9. **Development cost loan.** "Development cost loan" means a loan, or participation in a loan, with or without interest in the discretion of the members, authorized by resolution of the members and made or to be made to a housing sponsor from the housing development fund created by the act, for the purpose of defraying development costs, commonly referred to as a "seed money loan."

Subp. 10. **Developmentally disabled.** "Developmentally disabled" means an individual who has a severe, chronic disability which:

A. is attributable to a mental or physical impairment or a combination of mental and physical impairments;

B. is manifested before the person attains the age of 22;

C. is likely to continue indefinitely;

D. results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic sufficiency;

E. reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration.

Subp. 11. [Repealed by amendment, L 1987 c 187 s 15]

Subp. 11a. **Federally subsidized mortgages.** "Federally subsidized mortgages" means loans funded or acquired with the proceeds of bonds or notes the income from which is exempt from taxation under federal law except, where applicable, for federal alternative minimum tax laws, including federally insured mortgages, and loans that are benefited by payments under interest reduction, rental assistance, housing assistance, or other similar programs from agencies or instrumentalities of the federal government to assist persons and families of low and moderate income in obtaining decent, safe, and sanitary housing.

Subp. 12. **Gross annual income from self-employment.** "Gross annual income from self-employment" shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United

States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

Subp. 12a. **HUD.** "HUD" means the United States Department of Housing and Urban Development.

Subp. 13. **Housing sponsor.** "Housing sponsor" means an individual, a nonprofit entity, a limited dividend entity, or a cooperative housing corporation engaged in sponsoring a housing project for occupancy by persons and families of low and moderate income.

Subp. 14. **Limited dividend or limited dividend entity.** "Limited dividend" or "limited dividend entity" means and refers to those individuals, partnerships, joint ventures, and corporations: which, by their organizational documents or by agreement or otherwise, comply with limitations established by the agency or by other governmental agencies, on the rate of return which such individuals, partnerships, joint ventures, or corporations may realize on investments in proposed housing projects; and which, in the case of corporations, are in compliance with all the provisions of Minnesota Statutes, chapter 301 or 303, whichever is applicable.

Subp. 15. **Limited-unit development.** "Limited-unit development" means a loan or grant to a person or family of low or moderate income for new or existing residential housing intended for occupancy by such person or family and by not more than five other families.

Subp. 16. **Local community.** "Local community" means and refers to a city, village, or borough, however organized, in the state of Minnesota, and any housing and redevelopment authority created pursuant to the provisions of Minnesota Statutes, sections 469.001 to 469.047.

Subp. 17. [Repealed, 24 SR 1332]

Subp. 18. **Members.** "Members" means those persons appointed to the agency pursuant to section 4 of the act.

Subp. 19. **Mortgage loan.** "Mortgage loan" means a loan authorized by resolution of the members and made or to be made to a housing sponsor, or to a person or family of low or moderate income, or to a low income purchaser, from the proceeds of sale of the agency's bonds or notes, or from appropriations, for the purpose of providing construction financing, long-term financing, or both, for residential housing, and the payment of which is secured or to be secured.

Subp. 20. **Multiunit development.** "Multiunit development" means a loan or grant for new or existing residential housing which is intended for occupancy by more than one family, and the mortgage of which is a nonprofit or limited dividend entity.

Subp. 21. **Nonprofit or nonprofit entity.** "Nonprofit" or "nonprofit entity" means and refers to: housing and redevelopment authorities established under and pursuant to the

provisions of Minnesota Statutes, sections 469.001 to 469.047; and those partnerships, joint ventures, corporations, and associations which are established for a purpose not involving pecuniary gain to the members, partners, or shareholders thereof, pay no dividends or other pecuniary remuneration, directly or indirectly, to the members, partners, or shareholders thereof, and in the case of private, nonprofit corporations, are established under and pursuant to Minnesota Statutes, chapter 317A and are in compliance with all the provisions thereof; provided, however, that in no event shall a limited dividend entity be deemed a nonprofit entity.

Subp. 22. **Planning grant.** "Planning grant" means a grant authorized by resolution of the members and made or to be made to a local community from the housing development fund, for the purpose of providing funds to assist the local community in planning for land and building acquisition, improvements, renewal, relocation, or conservation on specific sites upon which housing is or will be situated, for occupancy by persons and families of low and moderate income.

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

A. With respect to limited-unit mortgage loans pursuant to parts 4900.0310 to 4900.0350, except for development cost loans pursuant to parts 4900.0210 to 4900.0240, planning grants pursuant to parts 4900.0410 and 4900.0420, and American Indian housing loans pursuant to parts 4900.0900 to 4900.1080, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in the following tables or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation.

(1) Maximum adjusted income for loans for new construction:

(a) in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$37,500
10.01 - 10.50%	\$38,500
10.51 - 11.00%	\$39,500
11.01 - 11.50%	\$40,500
11.51% and over	\$41,500

(b) in the counties of Clay, Nicollet, and Olmsted:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$32,000
10.01 - 10.50%	\$33,000
10.51 - 11.00%	\$34,000
11.01 - 11.50%	\$35,000
11.51% and over	\$36,000

(c) in the counties of Benton, Blue Earth, St. Louis, Sherburne, and Stearns:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$28,000
10.01 - 10.50%	\$29,000
10.51 - 11.00%	\$30,000
11.01 - 11.50%	\$31,000
11.51% and over	\$32,000

(d) in all other counties:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$28,000
10.01 - 10.50%	\$29,000
10.51 - 11.00%	\$30,000
11.01 - 11.50%	\$31,000
11.51% and over	\$32,000

(2) Maximum adjusted income for loans for existing construction:

(a) in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$33,000

10.01 - 10.50%	\$34,000
10.51 - 11.00%	\$35,000
11.01 - 11.50%	\$36,000
11.51% and over	\$37,000

(b) in the counties of Clay, Nicollet, and Olmsted:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$26,000
10.01 - 10.50%	\$27,000
10.51 - 11.00%	\$28,000
11.01 - 11.50%	\$29,000
11.51% and over	\$30,000

(c) in the counties of Benton, Blue Earth, St. Louis, Sherburne, and Stearns:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$24,000
10.01 - 10.50%	\$25,000
10.51 - 11.00%	\$26,000
11.01 - 11.50%	\$27,000
11.51% and over	\$28,000

(d) in all other counties:

Mortgage Interest Rate	Maximum Adjusted Income
0 - 10.00%	\$22,000
10.01 - 10.50%	\$23,000
10.51 - 11.00%	\$24,000
11.01 - 11.50%	\$25,000
11.51% and over	\$26,000

B. [Repealed, 10 SR 1557]

C. With respect to multiunit mortgage loans pursuant to parts 4900.0310 to 4900.0350, development cost loans pursuant to parts 4900.0210 to 4900.0240, planning grants pursuant to parts 4900.0410 and 4900.0420, and American Indian housing loans pursuant to parts 4900.0900 to 4900.1080, which loans or grants are intended for a multiunit development, those persons and families whose adjusted income at initial occupancy does not exceed:

(1) (a) 50 percent of area median income as determined by HUD, adjusted for family size, for at least 20 percent of the units in the development; or

(b) 60 percent of area median income as determined by HUD, adjusted for family size, for at least 40 percent of the units in the development; and

(2) the greater of area or statewide median income for a four-person household, as determined by HUD, and who pay no more than 30 percent of their income for housing, for at least 75 percent of the units in the development.

In addition to the requirements in subitems (1) and (2), assuming occupancy of at least 1.5 persons per bedroom:

(a) the rents for at least 20 percent of the units in the development must be affordable to persons and families whose adjusted income is 50 percent of area median income as determined by HUD and who pay no more than 30 percent of their income for housing; or

(b) the rents for at least 40 percent of the units in the development must be affordable to persons and families whose adjusted income is 60 percent of area median income as determined by HUD and who pay no more than 30 percent of their income for housing.

The members may allow higher rents for units in a structure if the members determine that higher rents are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs.

D. With respect to home improvement grants and rehabilitation loans pursuant to parts 4900.0610 to 4900.0700 and accessibility loans pursuant to parts 4900.0750 to 4900.0780 to be made by the agency, those persons and families whose assets do not exceed \$25,000, and with respect to rehabilitation loans defined in part 4900.0610 as revolving loans and accessibility loans defined in part 4900.0770 as deferred loans, those persons and families whose adjusted incomes do not exceed the limit stated in part 4900.0630, subpart 3.

E. With respect to home improvement loans and accessibility improvement assistance, pursuant to parts 4900.0510 and 4900.0710, respectively, those persons and families whose gross income does not exceed the limits established by the agency pursuant

to part 4900.0070 in conformity with the requirements of the United States Department of the Treasury or other agency of the federal government for federally subsidized mortgages for low- and moderate-income families.

F. With respect to parts 4900.2900 to 4900.2907, those persons whose income is at or below 50 percent of the median income adjusted for family size of the standard metropolitan statistical area.

Subp. 24. **Section 8.** "Section 8" means Section 8 of the United States Housing Act of 1937, codified at United States Code, title 42, section 1437f.

Subp. 25. **Section 236.** "Section 236" means Section 236 of the National Housing Act, codified at United States Code, title 12, section 1715z-1.

Statutory Authority: *MS s 14.05; 462A.03; 462A.06*

History: *8 SR 2661; 10 SR 1557; 11 SR 104; 11 SR 740; 12 SR 411; L 1987 c 186 s 15; 12 SR 1564; 13 SR 2153; 14 SR 331; 14 SR 2354; 14 SR 2432; 15 SR 376; L 1989 c 304 s 137; 16 SR 542; 18 SR 720; 18 SR 2277; 20 SR 41; 22 SR 23; 22 SR 1547; 24 SR 1332; 25 SR 877; 25 SR 1964; 29 SR 1479*

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