

## CHAPTER 462A

## HOUSING FINANCE AGENCY LAW OF 1971

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**462A.02 POLICY.**

*[For text of subds 1 to 9, see M.S.1982]*

Subd. 10. It is further declared that supplies of conventional energy resources are rapidly depleting in quantity and rising in price and that the burden of these occurrences falls heavily upon the citizens of Minnesota generally and persons of low and moderate income in particular. These conditions are adverse to the health, welfare, and safety of all of the citizens of this state. It is further declared that it is a public purpose to ensure the availability of financing to be used by all citizens of the state, while giving preference to low and moderate income people, to assist in the installation in their dwellings of reasonably priced energy conserving systems including the use of alternative energy resources and equipment so that by the improvement of the energy efficiency of all housing, the adequacy of the total energy supply may be preserved for the benefit of all citizens.

**History:** 1983 c 301 s 203

**462A.03 DEFINITIONS.**

*[For text of subds 1 to 12, see M.S.1982]*

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation, limited profit entity or a builder as defined by the agency in its rules, which sponsors or constructs residential housing as defined in subdivision 7, or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

*[For text of subds 14 to 19, see M.S.1982]*

**History:** 1983 c 185 s 1

**462A.05 SPECIFIC POWERS OF THE AGENCY.**

*[For text of subds 1 to 3, see M.S.1982]*

Subd. 4. It may purchase and enter into commitments for the purchase of eligible securities, certificates of deposit, time deposits, or existing mortgage loans from banks, savings and loan associations, insurance companies, or other financial intermediaries, provided that the agency shall first determine that the proceeds of such instruments will be utilized for the purpose of making loans for residential housing as defined in section 462A.03, subdivision 7.

*[For text of subs 5 to 8, see M.S.1982]*

Subd. 9. It may invest any funds not required for immediate disbursement in accordance with the provisions of section 462A.18, subdivision 2.

*[For text of subs 10 to 14, see M.S.1982]*

Subd. 14a. It may make loans to persons and families of low and moderate income to rehabilitate or to assist in rehabilitating existing residential housing owned and occupied by those persons or families. No loan shall be made unless the agency determines that the loan will be used primarily for rehabilitation work necessary for health or safety, essential accessibility improvements, or to improve the energy efficiency of the dwelling. No loan for rehabilitation of owner occupied residential housing shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing. The amount of any loan shall not exceed the lesser of (a) \$7,500, or (b) the actual cost of the work performed, or (c) that portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by the person or family without the expenditure of an unreasonable portion of the income of the person or family. In making loans, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion of the loan will be repaid and shall determine the appropriate security for the repayment of the loan. Loans pursuant to this subdivision may be made with or without interest or periodic payments. No loan under this subdivision shall be denied solely on the basis of the inability of the applicant to make periodic loan payments. Loans made without interest or periodic payments need not be repaid by the borrower if the property for which the loan is made has not been sold, transferred or otherwise conveyed nor has it ceased to be the principal place of residence of the borrower, within ten years after the date of the loan.

Subd. 14b. It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participating in the making, of loans to persons and families, without limitations relating to the maximum incomes of the borrowers, to assist in energy conservation rehabilitation measures for existing housing owned by those persons or families including, but not limited to: weatherstripping and caulking, chimney construction or improvement, furnace or space heater repair, cleaning or replacement, insulation, storm windows and doors, and structural or other directly related repairs essential for energy conservation. Loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and conditions.

*[For text of subs 15 to 17, see M.S.1982]*

Subd. 18. It may make loans to "nonprofit" sponsors as defined by the agency, with or without interest, and with such security for repayment, if any, as the agency determines reasonably necessary and practicable, solely from the housing development fund in accordance with the provisions of section 462A.21,

subdivision 9, to encourage innovations in the development or rehabilitation of single and multifamily residential housing including the demonstration of new techniques for energy efficient construction. It may make loans to for-profit sponsors pursuant to this subdivision, provided that the agency shall make the loan with interest at a rate determined by the agency.

It shall promulgate rules, in accordance with the provisions of sections 14.01 to 14.70, relating to the administration of the loans authorized by this subdivision. The rules may define types of projects eligible for loans, criteria for selecting between eligible loans, terms of the loans including interest rates and loan periods, and other characteristics that the agency deems necessary to administer the program.

Subd. 18a. The agency may make loans, with or without interest, and with security for repayment, if any, the agency determines reasonably necessary and practicable, for the financing of innovative housing as described in this section.

(a) The housing shall be cooperative or rental multifamily housing which is designed to provide long-term affordability and which is either owned and operated on a nonprofit cooperative basis by the residents, or owned by a limited-dividend entity and operated by a residents association.

(b) Occupancy shall be restricted to persons and families of low and moderate income as defined in section 462A.03, subdivision 10; provided that the agency shall give priority to proposals that will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States department of housing and urban development.

(c) A democratic residents association shall have substantial control over the operation and management of the housing and over the filling of housing unit vacancies.

(d) A training and education program shall be developed by the loan recipient and made available to residents to help them organize and operate the residents association, understand their legal rights and financial interests regarding the property, and manage and maintain the property. The agency shall ensure that a training and education program has been developed prior to approving any loan under this section.

*[For text of subs 19 to 21, see M.S.1982]*

Subd. 22. It may make or participate in the making and enter into commitments for the making of loans to any banking institution, savings and loan association, or other lender approved by the members, organized under the laws of this or any other state or of the United States having an office in this state, notwithstanding the provisions of section 462A.03, subdivision 13, if it first determines that the proceeds of such loans will be utilized for the purpose of making loans to or for the benefit of eligible persons and families as provided and in accordance with sections 462A.01 to 462A.24. Loans pursuant to this subdivision shall be secured, repaid and bear interest at the rate as determined by the members.

Subd. 23. The agency may participate in loans or establish a fund to insure loans, or portions of loans, that are made by any banking institution, savings and loan association, or other lender approved by the agency, organized under the laws of this or any other state or of the United States having an office in this state, to owners of renter occupied homes or apartments that do not comply with standards set forth in section 116J.27, subdivision 3, without limitations relating to the maximum incomes of the owners or tenants. The proceeds of the insured portion

of the loan must be used to pay the costs of improvements, including all related structural and other improvements, that will reduce energy consumption.

**History:** 1983 c 185 s 2-6; 1983 c 301 s 204-206

#### **462A.06 GENERAL POWERS OF THE AGENCY.**

*[For text of subds 1 to 7, see M.S.1982]*

Subd. 8. It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan, including a certificate evidencing an interest in one or more loans. The agency may, in connection with such a sale, retain the right or obligation to collect the principal and interest on the loan, to enter into commitments for timely remittal of the principal and interest, or to provide any other services as described in the certificate.

*[For text of subds 9 to 12, see M.S.1982]*

**History:** 1983 c 185 s 7

#### **462A.07 ADDITIONAL POWERS AND DUTIES OF THE AGENCY.**

*[For text of subds 1 to 14, see M.S.1982]*

Subd. 15. It may engage in housing programs for low and moderate income American Indians as that term is defined in section 254A.02, subdivision 11, residing in the metropolitan area defined in section 473.121, subdivision 2, and cities with a population greater than 50,000 persons. The programs shall demonstrate innovative methods of providing housing for urban Indians, may involve the construction, purchase, and rehabilitation of residential housing, and may be administered through any other provision of this chapter. To the extent possible, the programs shall combine appropriated money with other money from both public and private sources, except that interest earned on the portion of an appropriation to be expended for Indian housing programs in the city of Duluth does not have to be combined with money from other sources. The agency shall consult with the advisory council on urban Indians created pursuant to section 3.922, subdivision 8, in the development of programs pursuant to this subdivision.

*[For text of subd 16, see M.S.1982]*

**History:** 1983 c 201 s 1

#### **462A.072 PROVISION OF FINANCIAL EXPERTISE TO OTHER AGENCIES.**

Upon request of the commissioner of energy, planning and development, the director shall provide financial management assistance to the small business finance agency. Reimbursement for these services shall be at a reasonable rate established by negotiation between the director and the commissioner of energy, planning and development.

**History:** 1983 c 301 s 207

#### **462A.09 BONDS AND NOTES; RESOLUTIONS AUTHORIZING, ADDITIONAL TERMS, SALE.**

The notes and bonds of the agency shall be authorized by a resolution or resolutions adopted by the agency, shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, be in such denomina-

tions, be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places within or without the state, and be subject to such terms of redemption prior to maturity as such resolutions or certificates may provide. If, for any reason, whether existing at the date of issue of any bonds or notes or at the date of making or purchasing any loan or securities from the proceeds or thereafter, the interest on any bonds or notes shall be or become subject to federal income taxation, this shall not impair or affect the validity or the provisions made for the security of the bonds or notes. The agency may make such covenants and take or cause to be taken such actions as are in its judgment necessary or desirable to comply with conditions established by federal law or regulations for the exemption of interest on its obligations. The agency may refrain from compliance with such conditions if in its judgment this would serve the purposes and policies set forth in this chapter with respect to any particular issue of bonds or notes, unless this would violate covenants made by the agency. No note shall mature more than ten years from its date or from the date of any note refunded thereby. The maximum maturity of any bond, whether or not issued for the purpose of refunding, shall be 50 years from its date. The notes and bonds of the agency may be sold at public or private sale, at such price or prices as the agency shall determine; provided that (i) the aggregate price at which an issue of notes or bonds is initially offered by underwriters to investors, as set forth in the agency's official statement with respect to the offering, shall not exceed by more than three percent the aggregate price paid by the underwriters to the agency at the time of delivery; (ii) the commission paid by the agency to an underwriter or agent for placing an issue of notes or bonds with investors shall not exceed three percent of the aggregate price at which the issue is offered to investors as set forth in the agency's offering statement; and (iii) the spread or commission shall be an amount determined by the agency to be reasonable in the light of the risk assumed and the expenses of issuance, if any, required to be paid by the underwriters or agent.

**History:** 1983 c 185 s 8

#### 462A.19 EXEMPTION FROM TAXES.

Subdivision 1. The property of the agency and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions.

Subd. 2. [Repealed, 1983 c 213 s 25]

**History:** 1983 c 213 s 19

#### 462A.21 HOUSING DEVELOPMENT FUND; ADVANCES, USE REPAYMENT.

*[For text of subs 1 to 4a, see M.S.1982]*

Subd. 4b. It may establish loan funds and may make eligible loans from them, at rates of interest and with security as the agency deems advisable, if each loan is determined by the agency to be necessary to permit the occupant of residential housing financed wholly or in part by the loan to meet his housing costs without expending an unreasonable portion of his income on them. It may combine loan funds established pursuant to legislative appropriations with loan funds established for the same or similar purposes pursuant to the sale of its notes or bonds, and such combined funds may be deposited with a trustee. Portions of these funds derived from appropriations or the sale of its notes or bonds may be set aside as reserves against losses on loans to be made from the combined funds.

Each combined fund, including loan and investment principal and income received therefrom, shall be administered, disbursed, and collected as provided in the appropriation act and the resolution or indenture securing the bonds or notes.

*[For text of subds 4c to 4i, see M.S.1982]*

Subd. 4j. It may expend money for the purposes of section 462A.05, subdivision 23, and may pay the costs and expenses for the development and operation of the program.

*[For text of subds 5 to 8, see M.S.1982]*

Subd. 8a. It may establish a multifamily development assistance fund, on terms and conditions it deems advisable, to be used in connection with the financing of multifamily developments (a) to make loans, with or without interest, pursuant to section 462A.05, subdivisions 1 and 3, or (b) to make payments into accounts of the agency for the purpose of making payments required by a resolution for the issuance of its notes or bonds, as permitted by section 462A.10, subdivision 4.

*[For text of subd 9, see M.S.1982]*

Subd. 9a. It may create a revolving fund to be used to make loans to encourage innovative multifamily housing pursuant to section 462A.05, subdivision 18a.

*[For text of subds 10 and 12, see M.S.1982]*

**History:** 1983 c 185 s 9,10; 1983 c 301 s 208,209

#### **462A.22 BOND FUND.**

Subdivision 1. The aggregate principal amount of bonds and notes which are outstanding at any time, excluding the principal amount of any bonds and notes refunded by the issuance of new bonds or notes, shall not exceed the sum of \$1,550,000,000.

Subd. 1a. [Repealed, 1983 c 185 s 15]

*[For text of subds 2 to 4, see M.S.1982]*

Subd. 5. Moneys in any debt service reserve fund not required for immediate use or disbursement may be invested in accordance with the provisions of section 462A.18, subdivision 2.

*[For text of subds 6 to 9, see M.S.1982]*

Subd. 10. All of the books and records of the agency shall be subject to audit by the legislative auditor in the manner prescribed for other agencies of state government. The agency is authorized also to employ and to contract in its resolutions and indentures for the employment of public accountants for the audit of books and records pertaining to any fund or funds. The legislative auditor shall review contracts with public accountants as provided in section 3.972.

**History:** 1983 c 185 s 11,12; 1983 c 317 s 3

#### **462A.27 RULES.**

The agency may adopt temporary and permanent rules for the efficient administration of section 462A.05, subdivisions 14b, 18a, and 23. The temporary rules need not be adopted in compliance with chapter 14 and are effective for 360 days or until the permanent rules are adopted, whichever occurs first. The temporary rules are effective upon adoption by the agency and shall be published in the state register as soon thereafter as possible.

**History:** 1983 c 301 s 210