

CHAPTER 474A

BOND ALLOCATION

<p>474A.01 Citation.</p> <p>474A.02 Definitions.</p> <p>474A.03 Determination of annual volume cap.</p> <p>474A.04 Entitlement allocations under existing federal tax law.</p> <p>474A.045 Scoring system for manufacturing projects.</p> <p>474A.047 Residential rental bonds; limitations.</p> <p>474A.048 Single-family mortgage bonds; limitations.</p>	<p>474A.061 Allocation of manufacturing, multifamily housing, and public facilities pools.</p> <p>474A.081 Pool transfers.</p> <p>474A.091 Allocation of unified pool.</p> <p>474A.131 Notice of issue and notice of carryforward.</p> <p>474A.14 Notice of available authority.</p> <p>474A.15 State held harmless.</p> <p>474A.16 Exclusive method of allocation.</p> <p>474A.17 Administrative procedure act not applicable.</p> <p>474A.21 Appropriation; receipts.</p>
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474A.01 CITATION.

Sections 474A.01 to 474A.21 may be cited as the "Minnesota bond allocation act."

History: 1986 c 465 art 1 s 9

474A.02 DEFINITIONS.

Subdivision 1. **Terms defined.** For the purposes of Laws 1987, chapter 268, article 16, sections 1 to 40, the terms defined in this section shall have the meanings given them.

Subd. 2. **Annual volume cap.** "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of federal tax law, may be issued in one year by issuers.

Subd. 2a. **Bonding authority.** "Bonding authority" means all or a portion of the annual volume cap.

Subd. 2b. **Carryforward.** "Carryforward" means the ability to issue obligations in a year subsequent to the year in which an allocation of bonding authority was obtained under Laws 1987, chapter 268, article 16, sections 1 to 40 as provided in section 146(f) of federal tax law.

Subd. 3. [Repealed, 1986 c 465 art 1 s 32]

Subd. 4. **City.** "City" means a statutory or home rule charter city.

Subd. 5. [Repealed, 1987 c 268 art 16 s 45]

Subd. 5a. **Commissioner.** "Commissioner" means the commissioner of finance.

Subd. 6. **Department; department of finance.** "Department" means the department of finance.

Subd. 7. **Entitlement issuer.** "Entitlement issuer" means an issuer to which an allocation is made under section 474A.03, subdivision 2a; and Laws 1987, chapter 268, article 16, section 41, subdivisions 1, clause (a), and 2.

Subd. 8. **Federal tax law.** "Federal tax law" means those provisions of the Internal Revenue Code of 1986, as amended through December 31, 1989, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is excluded from gross income for purposes of federal income taxation.

Subd. 9. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 10. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 11. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 12. **Issuer.** "Issuer" means any entitlement issuer, state issuer, or other issuer.

Subd. 13. [Repealed, 1987 c 268 art 16 s 45]

Subd. 13a. **Manufacturing pool.** "Manufacturing pool" means the amount of the annual volume cap allocated under section 474A.061, that is available for the issuance of small issue bonds to finance manufacturing projects.

Subd. 14. **Manufacturing project.** "Manufacturing project" means any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

Subd. 15. [Repealed, 1987 c 268 art 16 s 45]

Subd. 16. [Repealed, 1986 c 465 art 1 s 32]

Subd. 17. [Repealed, 1987 c 268 art 16 s 45]

Subd. 18. **Notice of entitlement allocation.** "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section 474A.04, subdivision 5.

Subd. 19. **Other issuer.** "Other issuer" means an entity other than an entitlement issuer or state issuer which may issue obligations subject to an annual volume cap, including the University of Minnesota, a city, town, federally recognized American Indian tribe or subdivision located in Minnesota, housing and redevelopment authority referred to in chapter 462, or a body authorized to exercise the powers of a housing and redevelopment authority, a port authority referred to in chapter 458, or a body authorized to exercise the powers of a port authority, an economic development authority referred to in chapter 458C, an area or municipal redevelopment agency referred to in chapter 472, a county, or municipal authority or agency established under special law, or an entity issuing on behalf of the foregoing.

Subd. 20. [Repealed, 1987 c 268 art 16 s 45]

Subd. 20a. **Permanently issued.** Obligations are "permanently issued" if either (1) the obligations have been issued under terms and conditions such that the proceeds are available for the purpose for which they were issued, or (2) ten percent of the proceeds of the obligations, excluding costs of issuance, have been disbursed for the purpose for which they were issued.

Subd. 21. **Preliminary resolution.** "Preliminary resolution" means a resolution adopted by the governing body or board of the issuer, or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project, identify the proposed project, and disclose the proposed amount of qualified bonds to be issued. Preliminary resolutions for mortgage bonds and student loan bonds need not identify a specific project.

Subd. 22. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 22a. **Public facilities pool.** "Public facilities pool" means the amount of the annual volume cap allocated under section 474A.061, which is available for the issuance of public facility bonds or student loan bonds.

Subd. 22b. **Public facilities project.** "Public facilities project" means any publicly owned facility that is eligible to be financed with the proceeds of public facilities bonds as defined under section 474A.02, subdivision 23a.

Subd. 23. [Repealed, 1987 c 268 art 16 s 45]

Subd. 23a. **Qualified bonds.** "Qualified bonds" means the specific type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

(c) "mortgage bonds";
 (d) "small issue bonds" issued to finance manufacturing projects;
 (e) "student loan bonds";
 (f) "redevelopment bonds"; and
 (g) "governmental bonds" with a nonqualified amount in excess of \$15,000,000 as set forth in section 141(b)5 of federal tax law.

Subd. 24. [Repealed, 1987 c 268 art 16 s 45]

Subd. 25. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 26. **State issuer.** "State issuer" means the state of Minnesota; the commissioner of iron range resources and rehabilitation; or other agency, department, board, or commission of the state, that is authorized to issue obligations and has statewide jurisdiction.

Subd. 26a. **Unified pool.** "Unified pool" means the amount of the annual volume cap allocated under section 474A.091 that is available for the issuance of qualified bonds.

Subd. 27. [Repealed, 1987 c 268 art 16 s 45]

Subd. 28. [Repealed, 1987 c 268 art 16 s 45]

Subd. 29. [Repealed, 1987 c 268 art 16 s 45]

History: 1986 c 465 art 1 s 10; 1987 c 268 art 16 s 1-21; 1987 c 312 art 1 s 26 subd 2; 1989 c 209 art 2 s 46; 1989 c 335 art 1 s 250; 1990 c 552 s 2-4

474A.03 DETERMINATION OF ANNUAL VOLUME CAP.

Subdivision 1. **Annual volume cap under federal tax law; pool allocations.** At the beginning of each calendar year after December 31, 1990, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

- (1) \$75,000,000 to the manufacturing pool;
- (2) \$46,000,000 to the housing pool;
- (3) \$10,000,000 to the public facilities pool; and
- (4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Subd. 2. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 2a. **Entitlement issuer allocation.** (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

- (1) \$51,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 474A.091, subdivision 6;
- (2) \$20,000,000 per year to the city of Minneapolis; and
- (3) \$15,000,000 per year to the city of Saint Paul.

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

Subd. 3. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

History: 1986 c 465 art 1 s 11; 1Sp1986 c 3 art 2 s 33; 1987 c 268 art 16 s 22,23; 1990 c 552 s 5

474A.04 ENTITLEMENT ALLOCATIONS UNDER EXISTING FEDERAL TAX LAW.

Subdivision 1. [Repealed, 1987 c 268 art 16 s 45]

Subd. 1a. **Entitlement reservations; carryforward; deduction.** Except as provided in Laws 1987, chapter 268, article 16, section 41, subdivision 2, paragraph (a), any amount returned by an entitlement issuer before the last Monday in August shall be reallocated through the multifamily housing pool. Any amount returned on or after the last Monday in August shall be reallocated through the unified pool. An amount returned after the last Monday in November shall be reallocated to the Minnesota housing finance agency. Beginning with entitlement allocations received in 1987 under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraphs (2) and (3), there shall be deducted from an entitlement issuer's allocation for the subsequent year an amount equal to the entitlement allocation under which bonds are either not issued or carried forward under federal tax law. Except for the Minnesota housing finance agency, any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued by the end of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the next succeeding calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be divided equally for allocation through the manufacturing pool and the multifamily housing pool.

Subd. 2. [Repealed, 1987 c 268 art 16 s 45]

Subd. 3. [Repealed, 1987 c 268 art 16 s 45]

Subd. 4. [Repealed, 1987 c 268 art 16 s 45]

Subd. 5. **Notice of entitlement allocation.** As soon as possible in each calendar year, the commissioner shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation.

Subd. 6. **Entitlement transfers.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to bonding authority allocated to the original entitlement issuer under this section. An entitlement issuer may enter into an agreement with an issuer which is not an entitlement issuer whereby the recipient issuer issues qualified mortgage bonds, up to \$100,000 of which are issued pursuant to bonding authority allocated to the original entitlement issuer under this section. The agreement may be approved and executed by the mayor of the entitlement issuer with or without approval or review by the city council.

History: 1986 c 465 art 1 s 12; 1987 c 268 art 16 s 24-26; 1988 c 586 s 1; 1988 c 702 s 8

474A.045 SCORING SYSTEM FOR MANUFACTURING PROJECTS.

The following criteria must be used in determining the allocation of small issue bonds for manufacturing projects. The issuer must prepare and submit to the commissioner a public purpose scoring worksheet that presents the data and methods used in determining the total score under this section. The total score is the sum of the following:

- (1) the number of net direct new jobs in the state generated by the proposed project for the next two years per \$100,000 of proposed allocation multiplied by 15;
- (2) the number of direct jobs retained in the state due to the proposed project per \$100,000 of proposed allocation multiplied by 15;
- (3) the quotient of the total increase in net payroll generated in the state by the proposed project divided by the proposed bond allocation, multiplied by 100;
- (4) the quotient of the estimated total net increase in property taxes generated in the state by the project in the first full year of operation divided by the proposed bond allocation, multiplied by 500; and
- (5) the unemployment rate in the community where the proposed project is located measured as a percent of the state's unemployment rate, multiplied by ten.

The community unemployment rate used in determining the points under clause (5) must be the rate for the county in which the proposed project is located unless an accurate rate may be estimated for a smaller geographic area or census tract. The commissioner of jobs and training must approve the rate used when an unemployment rate other than that for a county is used.

If the manufacturing project will retain jobs and the total score includes points calculated under clause (2), the issuer must certify to the commissioner that the proceeds of the small issue bonds are required to retain those jobs. The commissioner shall submit the information relating to the retaining of jobs to the commissioner of trade and economic development. The commissioner of trade and economic development must verify that the proceeds of the small issue bonds are required to retain the jobs referred to in the certification prior to the awarding of any points under this section.

History: 1990 c 552 s 6

474A.047 RESIDENTIAL RENTAL BONDS; LIMITATIONS.

Subdivision 1. **Eligibility.** An issuer may only use the proceeds from residential rental bonds if the proposed project meets one of the following:

(a) The proposed project is a single room occupancy project and all the units of the project will be occupied by individuals whose incomes at the time of their initial residency in the project are 50 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development; or

(b) The proposed project is a multifamily project where at least 75 percent of the units have two or more bedrooms and at least one-third of the 75 percent have three or more bedrooms. At least 75 percent of the units of the multifamily project must be occupied by individuals or families whose incomes at the time of their initial residency in the project are 60 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development.

The maximum rent for a proposed single room occupancy unit under paragraph (a) is 30 percent of the amount equal to 30 percent of the greater of the statewide or county median income for a one-member household as determined by the federal Department of Housing and Urban Development. The maximum rent for a multifamily project under paragraph (b) is 30 percent of the amount equal to 50 percent of the greater of the statewide or county median income as determined by the federal Department of Housing and Urban Development based on a household size with one person per bedroom.

Subd. 2. **15-year agreement.** Prior to the issuance of residential rental bonds, the developer of the project for which the bond proceeds will be used must enter into a 15-year agreement with the issuer that specifies the maximum rental rates of the units in the project and the income levels of the residents of the project. The rental rates and income levels must be within the limitations established under subdivision 1. The developer must annually certify to the issuer over the term of the agreement that the rental rates are within the limitations under subdivision 1. The issuer may request individual certification of the income of all residents of the project. The commissioner may request from the issuer a copy of the annual certification prepared by the developer. The commissioner may require the issuer to request individual certification of all residents of the project.

Subd. 3. **Penalty.** If a project is found out of compliance with the rental rate or income level requirements under subdivision 1, the owner or owners of the project shall pay a penalty to the commissioner equal to one-half of one percent of the total amount of bonds issued for the project under this chapter. For each additional year a project is out of compliance, the annual penalty must be increased by one-half of one percent of the total amount of bonds issued under this chapter for the project. The commissioner shall deposit any penalties collected under this subdivision in the housing trust fund account established under section 462A.201.

History: 1990 c 552 s 7

474A.048 SINGLE-FAMILY MORTGAGE BONDS; LIMITATIONS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meaning given them.

(b) "City" means a city as defined in section 462C.02, subdivision 6.

(c) "Existing housing" means single-family housing that (i) has been previously occupied prior to the first day of the origination period; or (ii) has been available for occupancy for at least 12 months but has not been previously occupied.

(d) "Metropolitan area" means the Minneapolis-St. Paul metropolitan statistical area as defined by the United States Department of Commerce's Bureau of the Census.

(e) "New housing" means single-family housing that has not been previously occupied.

(f) "Origination period" means the period that loans financed with the proceeds of qualified 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.

(g) "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 by 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.

(h) "Single-family housing" means dwelling units eligible to be financed from the proceeds of qualified mortgage revenue bonds under federal law.

(i) "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, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

Subd. 2. **Limitation; origination period.** During the first ten months of an origination period, the Minnesota housing finance agency or a city may make loans financed with proceeds of mortgage bonds for the purchase of existing housing. Loans financed with the proceeds of mortgage bonds for new housing in the metropolitan area may be made during the first ten months of an origination period only if at least one of the following conditions is met:

(1) the new housing is located in a redevelopment area and is replacing a structurally substandard structure or structures;

(2) the new housing is located on a parcel purchased by the city or conveyed to the city under section 282.01, subdivision 1; or

(3) the new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of bonds, in which federal, state, or local assistance is used to substantially improve the terms of the financing or to substantially write down the purchase price of the new housing.

Upon expiration of the first ten-month period, the agency or a city may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

Subd. 3. **Nonmetropolitan area.** The Minnesota housing finance agency and cities shall initiate steps in the nonmetropolitan areas of the state similar to those required for the metropolitan area under subdivision 2 to encourage loans for existing housing or for new housing under the conditions specified in subdivision 2.

Subd. 4. **Redevelopment area.** A city must submit to the Minnesota housing finance agency the resolution adopted by the governing body of the city finding an area to be a redevelopment area and a map of the redevelopment area.

Subd. 5. **Limitation; commitments and loans to builders and developers.** The Minnesota housing finance agency or a city may not make available, provide set asides, or commit to make available proceeds of mortgage bonds for the exclusive use of builders

or developers for loans to eligible purchasers for new housing except for new housing described in subdivision 2, clauses (1) to (3). This prohibition is in effect for the total origination period.

Subd. 6. Reporting requirement. The Minnesota housing finance agency and any city that provides loans for new housing financed with the proceeds of mortgage bonds shall report to the chairs of the appropriate housing related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price, average borrower income, and steps taken to encourage loan activity as required in subdivision 3.

History: 1990 c 552 s 8

474A.05 [Repealed, 1987 c 268 art 16 s 45]

474A.06 [Repealed, 1987 c 268 art 16 s 45]

474A.061 ALLOCATION OF MANUFACTURING, MULTIFAMILY HOUSING, AND PUBLIC FACILITIES POOLS.

Subdivision 1. Application. (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August, and (5) a public purpose scoring worksheet for small issue applications. The issuer must pay the application deposit by check. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Subd. 2. [Repealed, 1990 c 552 s 24]

Subd. 2a. Housing pool allocation. (a) On the first business day that falls on a Monday of the calendar year and on the first Monday in April, the commissioner shall allocate available bonding authority in the housing pool to applications received by the Monday of the previous week for residential rental projects that meet the eligibility criteria under section 474A.047. After April 1, and until April 15, the Minnesota housing finance agency may accept applications from cities for single-family housing programs which meet program requirements as follows:

(1) the housing program must meet a locally identified housing need and be economically viable;

(2) the adjusted income of home buyers cannot exceed the agency's income limits, except in the Minneapolis-St. Paul metropolitan statistical area as determined by the United States Department of Commerce where the adjusted income limits of home buyers may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the Department of Housing and Urban Development;

(3) house price limits may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limitations for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 80 percent of the safe harbor limitation for existing housing if subsidy is used to reduce the effective purchase price of the property to the above levels. Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits;

(4) the housing program meets the requirements of section 474A.048; and

(5) an application deposit equal to one percent of the requested allocation must be submitted with the city's application. The agency shall submit the application and application deposit to the commissioner when requesting an allocation from the housing pool.

The Minnesota housing finance agency may accept applications from July 1 to July 15 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (5) if bonding authority is available in the housing pool. The agency and a representative for each applicant shall negotiate the terms of an agreement regarding the allocation of available authority among the applicants. The agreement must allot available bonding authority among the applicants. For purposes of paragraphs (a) to (d), "city" has the meaning given it in section 462C.02, subdivision 6, and "agency" means the Minnesota housing finance agency.

(b) Upon reaching agreement with participating cities, the agency shall forward to the commissioner the amounts allotted to each applicant pursuant to the agreement. The agency may issue bonds on behalf of participating cities. The agency shall request an allocation from the commissioner for all applicants who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Tuesday after the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August. The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (a), clause (5), but was not part of the agreement forwarded to the commissioner under this paragraph.

(c) A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner. If the total amount requested by all applicants exceeds the amount available in the pool, the city may not receive a greater allocation than the amount it would have received under the agreement forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the agreement under paragraph (b) has been forwarded to the commissioner. Between the first Monday in April and the last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the Minnesota housing finance agency. The commissioner shall allocate the requested amount to the city or cities subject to the limitations under this paragraph.

(d) If a city issues mortgage bonds from an allocation received under paragraph (c), the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner in writing of the reason that recycling was not possible and the reason the issuer elected not to have the Minnesota housing finance agency issue the bonds. "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

(e) The total amount of allocation for mortgage bonds for one city is limited to the lesser of (i) \$4,000,000 or (ii) 20 percent of the total amount available for allocation for mortgage bonds from the housing pool after the first Monday in April.

Subd. 2b. Manufacturing pool allocation. From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding

authority from the manufacturing pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority.

If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Subd. 2c. Public facilities pool allocation. From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the public facilities pool on Monday of each week to applications for eligible public facilities projects received on or before the Monday of the preceding week. If there are two or more applications for public facilities projects from the pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Subd. 3. Additional deposit. An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Tuesday in September only if the issuer has submitted to the department before the first Tuesday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency may retain an unused portion of an allocation after the first Tuesday in September without submitting an additional deposit.

Subd. 4. Return of allocation; deposit refund. (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in August, the amount of allocation is canceled and returned for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency.

Subd. 5. [Repealed, 1988 c 586 s 5]

Subd. 6. **Deadline for issuance of small issue bonds.** If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a manufacturing project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 474A.091, subdivision 6.

History: 1987 c 268 art 16 s 27; 1988 c 586 s 2,3; 1Sp1989 c 1 art 17 s 16-18; 1990 c 552 s 9-14

474A.07 Subdivision 1. [Repealed, 1987 c 268 art 16 s 45]

Subd. 2. [Repealed, 1987 c 268 art 16 s 45]

Subd. 3. [Repealed, 1987 c 268 art 16 s 45]

Subd. 4. [Repealed, 1987 c 268 art 16 s 45]

Subd. 5. [Repealed, 1987 c 268 art 16 s 45]

Subd. 6. [Repealed, 1987 c 268 art 16 s 45]

Subd. 7. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.08 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.081 POOL TRANSFERS.

Subdivision 1. **Authority to transfer bonding authority.** If there is insufficient bonding authority in either the manufacturing pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. **Transfer limits.** No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding 50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be \$80,000,000 for the manufacturing pool and \$60,000,000 for the multifamily housing pool.

Subd. 3. [Repealed, 1989 c 328 art 1 s 21]

Subd. 4. **Pool transfers.** If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily housing pool or applications for residential rental project bonds may receive bonding authority from the manufacturing pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the manufacturing pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.

History: 1987 c 268 art 16 s 28

474A.09 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.091 ALLOCATION OF UNIFIED POOL.

Subdivision 1. **Unified pool amount.** On the day after the last Monday in August any bonding authority remaining unallocated from the manufacturing pool, the housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Subd. 2. **Application.** An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of two percent

of the requested allocation, and (5) a public purpose scoring worksheet for small issue applications. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in September. Notwithstanding the restrictions imposed on unified pool allocations after October 1 under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after October 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Subd. 3. Allocation procedure. (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in September through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before October 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for small issue bonds;
- (2) applications for residential rental project bonds;
- (3) applications for public facility projects funded by public facility bonds;
- (4) applications for redevelopment bonds;
- (5) applications for mortgage bonds; and
- (6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in September. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 474A.045. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 474A.045 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in October, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the manufacturing pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the manufacturing pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in October, \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, seven-eighths of the remaining available bonding authority is reserved for small issue bonds and one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

- (i) \$10,000,000 for any one city; or
- (ii) \$20,000,000 for any number of cities in any one county.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After October 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. Mortgage bonds. All remaining bonding authority available for allocation under this section on December 1, is allocated to the Minnesota housing finance agency.

Subd. 4a. [Repealed, 1990 c 552 s 24]

Subd. 5. Return of allocation; deposit refund. (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in November, the amount of allocation is canceled and returned for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund equal to:

- (1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving the allocation;
- (2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving the allocation; and
- (3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency.

Subd. 6. Final allocation; carryforward. Any bonding authority remaining unissued by the Minnesota housing finance agency after the last Monday in December is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

History: 1987 c 268 art 16 s 29; 1987 c 312 art 1 s 26 subd 2; 1988 c 586 s 4; 1Sp1989 c 1 art 17 s 19,20; 1990 c 552 s 15-19

474A.10 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.11 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.12 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.13 Subdivision 1. [Repealed, 1986 c 465 art 1 s 32]

Subd. 2. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 3. [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

Subd. 4. [Repealed, 1986 c 465 art 1 s 32]

Subd. 5. [Repealed, 1986 c 465 art 1 s 32]

474A.131 NOTICE OF ISSUE AND NOTICE OF CARRYFORWARD.

Subdivision 1. **Notice of issue.** Each issuer that issues bonds with an allocation received under this chapter shall provide a notice of issue to the department on forms provided by the department stating:

- (1) the date of issuance of the bonds;
- (2) the title of the issue;
- (3) the principal amount of the bonds;
- (4) the type of qualified bonds under federal tax law; and
- (5) the dollar amount of the bonds issued that were subject to the annual volume cap.

For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a notice of issue the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority actually issued if a one percent application deposit was made, or equal to two percent of the amount of the bonding authority actually issued if a two percent application deposit was made.

Subd. 2. **Carryforward notice.** If an issuer intends to carry forward an allocation received under this chapter, it must notify the department in writing before the last Monday of December. If the written notice of carryforward is not provided within the time required, one-quarter of the amount of the application deposit eligible for refund upon filing of the notice of issue under this section is forfeited.

History: 1987 c 268 art 16 s 33; 1990 c 552 s 20

474A.14 NOTICE OF AVAILABLE AUTHORITY.

The department shall publish in the State Register a notice of the amount of bonding authority in the housing, manufacturing, and public facilities pools as soon after January 1 as possible. The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after september 1 as possible.

History: 1986 c 465 art 1 s 22; 1987 c 268 art 16 s 34; 1990 c 552 s 21

474A.15 STATE HELD HARMLESS.

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under Laws 1987, chapter 268, article 16, sections 1 to 40.

History: 1986 c 465 art 1 s 23; 1987 c 268 art 16 s 35

474A.16 EXCLUSIVE METHOD OF ALLOCATION.

Laws 1987, chapter 268, article 16, sections 1 to 40 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of federal tax law.

History: 1986 c 465 art 1 s 24; 1987 c 268 art 16 s 36

474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.

Chapter 14 shall not apply to actions taken by any state agency or entity under Laws 1987, chapter 268, article 16, sections 1 to 40.

History: 1986 c 465 art 1 s 25; 1987 c 268 art 16 s 37

474A.18 [Repealed, 1986 c 465 art 1 s 32]

474A.19 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]

474A.20 [Repealed, 1986 c 465 art 1 s 32]

474A.21 APPROPRIATION; RECEIPTS.

Any fees collected by the department under sections 474A.01 to 474A.21 must be deposited in a separate account in the general fund. The amount necessary to refund application deposits is appropriated to the department from the separate account in the general fund for that purpose. The interest accruing on application deposits and any application deposit not refunded as provided under section 474A.061, subdivision 4, or 474A.091, subdivision 5, or forfeited as provided under section 474A.131, subdivision 2, must be deposited in the housing trust fund account under section 462A.201.

History: 1986 c 465 art 1 s 29; 1987 c 268 art 16 s 40; 1990 c 520 s 5