

CHAPTER 462A

HOUSING FINANCE AGENCY

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462A.02 POLICY.

[For text of subs 1 to 10, see M.S.1990]

Subd. 11. It is further declared that it is in the best interests of the citizens of the state of Minnesota that public money used for the purposes of this chapter be used in a manner that best assures the long-term affordability of housing to low- and moderate-income citizens. To achieve that public purpose, the agency shall consider, in the making of grants and loans and other uses of agency resources, the degree to which such grants, loans, and other uses will assure the long-term affordability of the housing, by use of the neighborhood land trust model or other techniques.

History: 1991 c 287 s 4

462A.03 DEFINITIONS.

[For text of subs 1 to 9, see M.S.1990]

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin, sex, or status with respect to guardianship or conservatorship, determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

[For text of subs 11 and 12, see M.S.1990]

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation; the department of administration for the purpose of developing nursing home beds under section 251.011, community-based programs as defined in sections 252.50 and 253.28, or secure beds for mentally ill persons under section 253.015, subdivision 2, paragraph (c); a 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, provided that residual receipts funds of a limited dividend entity may be used for agency-approved, housing-related

investments owned by the limited dividend entity without regard to the limitation on returns. 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 and 15, see M.S.1990]

Subd. 16. "Mentally ill person" means a person with a mental illness, an adult with an acute mental illness, or a person with a serious and persistent mental illness, as prescribed by section 245.462, subdivision 20.

[For text of subds 17 to 21, see M.S.1990]

Subd. 22. **Nonprofit organization.** "Nonprofit organization" means a housing and redevelopment authority established under sections 469.001 to 469.047, or other law, or a partnership, joint venture, corporation, or association which is established for a purpose not involving pecuniary gain to the members, partners, or shareholders; pays no dividends or other pecuniary remuneration to the members, partners, or shareholders; and in the case of a private nonprofit corporation, is established under chapter 317A and is in compliance with chapter 317A. A nonprofit organization does not include a limited dividend entity.

History: 1991 c 292 art 6 s 52; art 9 s 15-18

462A.05 SPECIFIC POWERS OF THE AGENCY.

[For text of subds 1 to 13, see M.S.1990]

Subd. 14. **Rehabilitation loans.** It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participation in the making, of eligible loans for rehabilitation to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by such persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and may be made with security, or may be unsecured, as the agency deems advisable. The loans may be in addition to or in combination with long-term eligible mortgage loans under subdivision 3. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if refinancing is determined by the agency to be necessary to permit the owner to meet the owner's housing cost without expending an unreasonable portion of the owner's income thereon. No loan for rehabilitation shall be made unless the agency determines that the loan will be used primarily to make the housing more desirable to live in, to increase the market value of the housing, for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering the provisions of this chapter, establish codes and standards. Except for accessibility improvements under subdivision 14d, no loan for rehabilitation of any property shall be made in an amount which, with all other existing indebtedness secured by the property, would exceed its market value, as determined by the agency. No loan under this subdivision 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. Rehabilitation 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 subds 14a to 14c, see M.S.1990]

Subd. 14d. Accessibility loan program. Rehabilitation loans authorized under subdivision 14 may be made to eligible persons and families whose income does not exceed the maximum income limits allowable under section 143(f) of the Internal Revenue Code of 1986, as amended through June 30, 1991.

A person or family is eligible to receive an accessibility loan under the following conditions:

- (1) the borrower or a member of the borrower's family requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility for persons with mental retardation or related conditions;
- (2) home care is appropriate; and
- (3) the improvement will enable the borrower or a member of the borrower's family to reside in the housing.

[For text of subds 15 to 15b, see M.S.1990]

Subd. 15c. Residential lead abatement. It may make or purchase loans or grants for the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil on the property of residential buildings occupied by low- and moderate-income persons. Hazardous levels are as determined by the department of health or the pollution control agency. The agency must establish grant criteria for a residential lead paint and lead contaminated soil abatement program, including the terms of loans and grants under this section, a maximum amount for loans or grants, eligible owners, eligible contractors, and eligible buildings. The agency may make grants to cities, local units of government, registered lead abatement contractors, and nonprofit organizations for the purpose of administering a residential lead paint and contaminated lead soil abatement program. No loan or grant may be made for lead paint abatement for a multifamily building which contains substantial housing maintenance code violations unless the violations are being corrected in conjunction with receipt of the loan or grant under this section. The agency must establish standards for the relocation of families where necessary and the payment of relocation expenses. To the extent possible, the agency must coordinate loans and grants under this section with existing housing programs.

The agency, in consultation with the department of health, shall report to the legislature by January 1993 on the costs and benefits of subsidized lead abatement and the extent of the childhood lead exposure problem. The agency shall review the effectiveness of its existing loan and grant programs in providing funds for residential lead abatement and report to the legislature with examples, case studies and recommendations.

[For text of subds 16 to 19, see M.S.1990]

Subd. 20. Special needs housing for homeless persons. (a) The agency may make loans or grants to eligible mortgagors for the acquisition, rehabilitation, and construction of residential housing to be used for the following purposes:

- (1) temporary or transitional housing for low-income persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other cause as defined by the agency. Loans or grants for residential housing for migrant farmworkers may be made under this paragraph. Residential housing for migrant farmworkers must contain cooking, sleeping, bathroom facilities, and hot and cold running water in the same structure;
 - (2) housing to be used by low-income persons living alone; and
 - (3) housing for homeless individuals and families.
- (b) Housing under this subdivision must be for low-income families and individuals.

(c) The agency may make planning grants to nonprofit organizations to develop coordinated training and housing programs for homeless adults.

(d) Loans or grants under this subdivision must not be used for residential care facilities, for facilities that provide housing available for occupancy on less than a 24-hour continuous basis, or for any residential housing that requires occupants to accept board as well as lodging.

(e) Loans or grants under this subdivision must not exceed 50 percent of the development costs. Donated property may be used to satisfy the match requirement.

(f) All occupants of permanent housing financed under this subdivision must be offered a written lease that complies with section 325G.31, offers the occupants the option to renew, and prohibits eviction of an occupant without good cause.

(g) Priority must be given to viable proposals with the total lowest cost per person served.

(h) The selection criteria for the program must include the following: the extent to which proposals use donated, leased, abandoned, or empty dwellings owned by a public entity or property being sold by the Resolution Trust Corporation or the Department of Housing and Urban Development; and the extent to which applicants consulted with advocates for the homeless, representatives from neighborhood groups, and representatives from labor organizations in preparing the proposal.

Subd. 20a. Special needs housing for chemically dependent adults. (a) The agency may make loans or grants to for-profit, limited-dividend, or nonprofit sponsors, as defined by the agency, for residential housing to be used to provide temporary or transitional housing to low- and moderate-income persons and families having an immediate need for temporary or transitional housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing, or other cause defined by the agency.

(b) Loans or grants for housing for chronic chemically dependent adults may be made under this subdivision. Housing for chronic chemically dependent adults must satisfy the following conditions:

(1) be certified by the department of health or the city as a board and lodging facility or single residence occupancy housing;

(2) meet all applicable health, building, fire safety, and zoning requirements;

(3) be located in an area significantly distant from the present location of county detoxification service sites;

(4) make available the services of trained personnel to appraise each client before or upon admission and to provide information about medical, job training, and chemical dependency services as necessary;

(5) provide on-site security designed to assure the health and safety of clients, staff, and neighborhood residents; and

(6) operate with the guidance of a neighborhood-based board.

Priority for loans and grants made under this paragraph must be given to proposals that address the needs of the Native American population and veterans of military services for this type of housing.

(c) Loans or grants pursuant to this subdivision must not be used for facilities that provide housing available for occupancy on less than a 24-hour continuous basis. To the extent possible, a sponsor shall combine the loan or grant with other funds obtained from public and private sources. In making loans or grants, the agency shall determine the circumstances, terms, and conditions under which all or any portion of the loan or grant will be repaid and the appropriate security should repayment be required.

[For text of subs 21 to 27, see M.S.1990]

Subd. 28. [Repealed, 1991 c 292 art 9 s 38]

Subd. 29. [Repealed, 1991 c 292 art 9 s 38]

[For text of subs 30 to 35, see M.S.1990]

Subd. 36. Lease-purchase housing. The agency may make grants or loans to non-profit organizations, local government units, Indian tribes, and Indian tribal organizations to finance the acquisition, improvement, rehabilitation, and lease-purchase of existing housing for persons of low and moderate income. A person or family is eligible to participate in a lease-purchase agreement if the person's or family's income does not exceed 60 percent of the greater of (1) state median income, or (2) area or county median income. The lease agreement must provide for a portion of the lease payment to be escrowed as a down payment on the housing. A property containing two or fewer dwelling units is eligible for financing under the lease-purchase housing program. A loan made under this subdivision must be repaid to the agency upon sale of the housing. The agency may only make grants or loans under this subdivision from funds specifically appropriated by the legislature for that purpose.

Subd. 37. Blighted residential property acquisition and rehabilitation; neighborhood land trust. The agency may make grants to cities for the purpose of acquisition and demolition of blighted residential property and gap financing for the rehabilitation of blighted residential property or construction of new housing on the property. Gap financing is financing for the difference between the cost of the improvement of the blighted property, including acquisition, demolition, rehabilitation, and construction, and the market value of the property upon sale. Grants under this section must be used for households with income less than or equal to the county or area median income as determined by the United States Department of Housing and Urban Development. Cities may use the grants to establish revolving loan funds and provide loans and grants to eligible mortgagors for the acquisition, demolition, redevelopment, and rehabilitation of blighted residential property located in a neighborhood designated by the city for neighborhood preservation. The city may determine the terms and conditions of the loans and grants. The agency may make grants or loans to nonprofit organizations for the purpose of organizing or funding neighborhood land trust projects. The projects must assure the long-term affordability of neighborhood housing by maintaining ownership of the land through a neighborhood land trust.

History: 1991 c 292 art 9 s 19-25

462A.073 SINGLE-FAMILY MORTGAGE BONDS; LIMITATIONS.

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

(b) "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.

(c) "Metropolitan area" means the metropolitan area as defined in section 473.121, subdivision 2.

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

(e) "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.

(f) "Redevelopment area" means a compact and contiguous area within which the agency finds that 70 percent of the parcels are occupied by buildings, streets, utilities, or other improvements and more than 25 percent of the buildings, not including out-buildings, are structurally substandard to a degree requiring substantial renovation or clearance.

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

(h) "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 agency 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;

(2) the new housing is replacing a structurally substandard structure or structures;

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 may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

Subd. 3. Nonmetropolitan area. The agency shall initiate steps in the non-metropolitan 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. Limitation; commitments and loans to builders and developers. The agency 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) and (2). This prohibition is in effect for the total origination period.

Subd. 5. Reporting requirement. 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 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: 1991 c 346 s 1

462A.08 BONDS AND NOTES; PURPOSES, TERMS, APPROVAL.

[For text of subd 1, see M.S.1990]

Subd. 2. The agency from time to time may issue bonds or notes for the purpose of refunding any bonds or notes of the agency then outstanding, or, with the consent of the original issuer, any bonds or notes then outstanding issued by an issuer other than the agency for the purpose of making or purchasing loans for single family housing or multifamily housing developments, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such refunding bonds or notes may, in the discretion of the agency, be applied to the purchase or payment at maturity of the bonds or notes to be refunded, or to the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase, retirement, or redemption. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality thereof, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, maturing at such time or times as shall be appropriate to assure

the prompt payment of the principal of and interest and redemption premiums, if any, on the bonds or notes to be refunded. The income earned or realized on any such investment may also be applied to the payment of the bonds or notes to be refunded. After the terms of the escrow have been fully satisfied, any balance of such proceeds and investment income may be returned to the agency for use by it in any lawful manner. All refunding bonds or notes issued under the provisions of this subdivision shall be issued and secured in the manner provided by resolution of the agency. If bonds or notes are issued by the agency to refund bonds or notes issued by an issuer other than the agency, as authorized by this subdivision, the agency and said issuer may enter into such agreements as they may deem appropriate to facilitate such transaction.

[For text of subd 3, see M.S.1990]

History: 1991 c 292 art 9 s 26

462A.205 RENT ASSISTANCE FOR FAMILY STABILIZATION DEMONSTRATION PROJECT.

Subdivision 1. Family stabilization demonstration project. The agency, in consultation with the department of human services, may establish a rent assistance for family stabilization demonstration project. The purpose of the project is to provide rental assistance to families who, at the time of initial eligibility for rental assistance under this section, were receiving public assistance, and had a caretaker parent participating in a self-sufficiency program and at least one minor child. The demonstration project is limited to counties with high average housing costs. The program must offer two options: a voucher option and a project-based voucher option. The funds may be distributed on a request for proposal basis.

Subd. 2. Definitions. For the purposes of this section, the following terms have the meaning given them.

(a) "Caretaker parent" means a parent, relative caretaker, or minor caretaker as defined by the aid to families with dependent children program, sections 256.72 to 256.87.

(b) "Counties with high average housing costs" means counties whose average federal section 8 fair market rents as determined by the Department of Housing and Urban Development are in the highest one-third of average rents in the state.

(c) "Designated rental property" is rental property (1) that is made available by a self-sufficiency program for use by participating families and meets federal section 8 existing quality standards, or (2) that has received federal, state, or local rental rehabilitation assistance since January 1, 1987, and meets federal section 8 existing housing quality standards.

(d) "Gross family income" for a family receiving rental assistance under this section means the gross amount of the wages, salaries, social security payments, pensions, workers' compensation, unemployment compensation, public assistance payments, alimony, child support, and income from assets received by the family.

(e) "Local housing agency" means the agency of local government responsible for administering the Department of Housing and Urban Development's section 8 existing voucher and certificate program.

(f) "Public assistance" means aid to families with dependent children, family general assistance, or family work readiness.

(g) "Self-sufficiency program" means a program operated by a certified employment and training service provider as defined in section 256.736, subdivision 1a, paragraph (e), an employability program administered by a community action agency, or courses of study at an accredited institution of higher education pursued with at least half-time student status.

Subd. 3. Local housing agency. The agency may contract with a local housing agency to administer the rent assistance under this section. The local housing agency must be paid an administrative fee. The administrative fee is equal to the greater of ten percent of the amount of the subsidy or \$15 per unit per month.

Subd. 4. Amount and payment of rent assistance. (a) This subdivision applies to both the voucher option and the project-based voucher option.

(b) Within the limits of available appropriations, eligible families may receive monthly rent assistance for a 36-month period starting with the month the family first receives rent assistance under this section. The amount of the family's portion of the rental payment is equal to at least 30 percent of gross income.

(c) The rent assistance must be paid by the local housing agency to the property owner.

(d) Subject to the limitations in paragraph (e), the amount of rent assistance is the difference between the rent and the family's portion of the rental payment.

(e) In no case:

(1) may the amount of monthly rent assistance be more than \$200;

(2) may the owner receive more rent for assisted units than for comparable unassisted units; nor

(3) may the amount of monthly rent assistance be more than the difference between the family's portion of the rental payment and the fair market rent for the unit as determined by the Department of Housing and Urban Development.

Subd. 5. Voucher option. At least one-half of the appropriated funds must be made available for a voucher option. Under the voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families. Families may use the voucher for any rental housing that is certified by the local housing agency as meeting section 8 existing housing quality standards.

Subd. 6. Project-based voucher option. A portion of the appropriated funds must be made available for a project-based voucher option. Under the project-based voucher option, the Minnesota housing finance agency, in consultation with the department of human services, will award a number of vouchers to self-sufficiency program administrators for participating families who live in designated rental property that is certified by a local housing agency as meeting section 8 existing housing quality standards. The Minnesota housing finance agency and local housing agencies must work with self-sufficiency program administrators to identify rental property that has received rental rehabilitation assistance since January 1, 1987. The agency may set aside a portion of the funds to be used in connection with rental rehabilitation projects which will be completed by July 1, 1992.

Subd. 7. Property owner. In order to receive rent assistance payments, the property owner must enter into a standard lease agreement with the family which includes a clause providing for good cause evictions only. Otherwise, the lease may be any standard lease agreement. The agency and local housing agencies must make model lease agreements available to participating families and property owners.

History: 1991 c 292 art 9 s 27

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

[For text of subs 1 to 4j, see M.S.1990]

Subd. 4k. Housing development fund. The agency may make grants for residential housing for low-income persons under section 462A.05, subdivision 20, and may pay the costs and expenses for the development and operation of the program.

[For text of subs 4l to 12, see M.S.1990]

Subd. 12a. Program money transfer. Grants authorized under section 462A.05, subdivision 20, may be made only with specific appropriations by the legislature, but unencumbered balances of money appropriated for the purpose of loans or grants for agency programs under these subdivisions may be transferred between programs created by these subdivisions or in accordance with section 462A.20, subdivision 3.

[For text of subd 13, see M.S.1990]

Subd. 14. It may make housing grants for homeless individuals as provided in section 462A.05, subdivision 20, and may pay the costs and expenses for the development and operation of the program.

[For text of subd 15, see M.S.1990]

Subd. 16. **Residential lead paint and lead contaminated soil abatement.** It may make loans or grants for the purpose of the abatement of hazardous levels of lead paint in residential buildings and lead contaminated soil under section 462A.05, subdivision 15c, and may pay the costs and expenses necessary and incidental to the development and operation of the program.

History: 1991 c 292 art 9 s 28-31

462A.22 BOND FUND.

[For text of subs 1 to 8, see M.S.1990]

Subd. 9. **Biennial report.** The agency shall also submit a biennial report of its activities and receipts, and a plan for the next biennium, to the governor and the legislature on or before February 15 in each odd-numbered year. The report shall include the distribution of money under each agency program by county, except for counties containing a city of the first class, where the distribution shall be reported by municipality.

In addition, the report shall include the cost to the agency of the issuance of its bonds for each issue in the biennium, along with comparable information for other state housing finance agencies.

[For text of subd 10, see M.S.1990]

History: 1991 c 292 art 9 s 32

462A.222 LOW-INCOME HOUSING CREDITS.

[For text of subs 1 to 2, see M.S.1990]

Subd. 3. **Allocation procedure.** (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) single-room occupancy projects which are affordable by households whose income does not exceed 30 percent of the median income;

(2) family housing projects in which at least 75 percent of the units contain two or more bedrooms and at least one-third of the 75 percent contain three or more bedrooms;

(3) projects in which a percentage of the units are set aside and rented to persons:

(i) with a serious and persistent mental illness as defined in section 245.462, subdivision 20, paragraph (c);

(ii) with a developmental disability as defined in United States Code, title 42, section 6001, paragraph (5), as amended through December 31, 1990;

(iii) who have been assessed as drug dependent persons as defined in section 254A.02, subdivision 5, and are receiving or will receive care and treatment services provided by an approved treatment program as defined in section 254A.02, subdivision 2;

(iv) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a); or

(v) with physical disabilities if at least 50 percent of the units are accessible as provided under Minnesota Rules, chapter 1340;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

[For text of subd 4, see M.S.1990]

History: 1991 c 292 art 9 s 33

462A.30 DEFINITIONS.

Subdivision 1. Applicability. The definitions in this section apply to sections 462A.02, subdivision 11, 462A.30, and 462A.31.

Subd. 2. Agency. "Agency" means the Minnesota housing finance agency.

Subd. 3. First option to purchase. "First option to purchase" means a right of a neighborhood land trust or the agency to purchase all or any portion of the improvements and leasehold interest of a lessee, sublessee, or other resident of property subject to a ground lease, prior to the rights of any other party and at a limited equity price.

Subd. 4. Ground lease. "Ground lease" means a lease of real property in which the lease does not include buildings or other improvements.

Subd. 5. Leasehold interest. "Leasehold interest" means the real property interest of a lessee in a ground lease in which the neighborhood land trust is the lessor.

Subd. 6. Limited equity formula. "Limited equity formula" means a method, to be determined by rule adopted by the agency, for calculation of the limited equity price, designed to maintain the affordability of the housing and the public subsidy.

Subd. 7. Limited equity price. "Limited equity price" means a price for the sale of any building or other improvement located on land owned by a neighborhood land trust determined by means of the limited equity formula.

Subd. 8. Neighborhood land trust. "Neighborhood land trust" means a nonprofit corporation organized under chapter 317A that complies with section 462A.31 and that qualifies for tax exempt status under United States Code, title 26, section 501(c)(3), and meets all other criteria for neighborhood land trust set by the agency.

Subd. 9. Persons and families of low and moderate income. "Persons and families of low and moderate income" has the meaning specified in section 462A.03, subdivision 10.

History: 1991 c 287 s 2

462A.31 NEIGHBORHOOD LAND TRUSTS.

Subdivision 1. Purposes. A neighborhood land trust must have as one of its purposes the holding of land and the leasing of land for the purpose of preserving the affordability of housing on that land for persons and families of low and moderate income.

Subd. 2. Powers. A neighborhood land trust may have any or all of the powers permitted to a nonprofit corporation under chapter 317A, except that a neighborhood land trust must have the power to buy and sell land, to mortgage and otherwise encumber land, and to negotiate and enter into ground leases with an initial term of up to 99 years.

Subd. 3. Restrictions. A ground lease in which a neighborhood land trust is the lessor must contain provisions designed to preserve the affordability of housing on the land. Each ground lease must reserve to the neighborhood land trust the first option to purchase any building or improvement on the land, or any condominium or cooperative unit located in a building on the land, at a limited equity price specified in the ground lease. Each ground lease must grant to the Minnesota housing finance agency the right to exercise that first option to purchase if the neighborhood land trust does not, for any reason, exercise the first option. Each ground lease must exempt sales to persons and families of low and moderate income from the provisions granting the first option to purchase to the neighborhood land trust and to the Minnesota housing finance agency. Sales to persons and families of low and moderate income are not exempt from the limited equity price. A ground lease may also contain appropriate restrictions on:

- (1) subletting or assigning the ground lease;
- (2) construction and renovation of buildings and other improvements; and
- (3) sale of buildings and improvements.

Subd. 4. Mortgages. (a) A ground lease with a neighborhood land trust must prohibit the lessee from mortgaging the lessee's interest in the lease or in buildings or other improvements without the consent of the neighborhood land trust. A ground lease may obligate a neighborhood land trust as lessor and fee title holder to consent to, join in, or subordinate its interest to, a mortgage entered into by a lessee as mortgagor for the purpose of obtaining financing for construction or renovation of housing on the land. A lease provision so obligating a neighborhood land trust must specify that the mortgage must provide to the neighborhood land trust the right to receive from the mortgagee prompt notice of default in the mortgage and the right to cure the default or to purchase the mortgagee's interest in the mortgage. The limited equity price and provisions in subdivision 3 do not apply if the lessee or the neighborhood land trust fails to cure the default or purchase the mortgagee's interest in the mortgage.

(b) A ground lease with a neighborhood land trust must provide that the neighborhood land trust will not, during the term of the lease, mortgage or otherwise encumber its interest in the property or permit any liens on its interest in the property to exist. This prohibition does not apply to mortgages that require the mortgagee to subordinate the lien of its mortgage to a mortgage entered into by a lessee as mortgagor for the purpose of obtaining financing for construction or renovation of housing on the land.

Subd. 5. Rights of heirs. A ground lease with a neighborhood land trust must provide that the heirs of the lessee may assume the lease, if the heirs agree to occupy the lease property as their homestead. For purposes of this subdivision, "the heirs" means the heirs at law of a lessee who dies intestate or the devisees of a lessee who dies testate.

History: 1991 c 287 s 3

462A.32 HOUSING CAPITAL RESERVE PROGRAM.

Subdivision 1. Program authorization. The agency may establish the housing capital reserve program for the purposes of encouraging private financial institutions to participate in the preservation or rehabilitation of the existing housing stock and providing single-family home ownership and affordable rental housing opportunities. The agency may enter agreements with cities for city financial participation in the housing capital reserve program.

Subd. 2. Statewide housing reserve fund. The agency may establish a statewide housing reserve fund consisting of agency and city funds for the purpose of securing housing rehabilitation loans and housing purchase-rehabilitation loans. Loans from the reserve fund may be sold on the secondary market. The agency or city may issue appro-

priate debt capital instruments, including taxable or tax-exempt bonds, secured by the reserve fund. The agency may use the reserve fund to secure the debt instruments or for credit enhancement purposes. Proceeds may be used to make housing rehabilitation loans and housing purchase-rehabilitation loans. The reserve fund may be used to provide additional security for loans provided by public agencies and private lenders to finance the preservation and rehabilitation of existing housing stock and provide affordable rental housing opportunities.

Subd. 3. Eligible loans. Rehabilitation loans made and pooled under this section may consist of both single and multifamily housing rehabilitation loans. Purchase-rehabilitation loans may be made and pooled for the purpose of single-family housing.

History: 1991 c 292 art 9 s 34