

CHAPTER 474A

BOND ALLOCATION

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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 this chapter, 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 this chapter 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 [Repealed, 1986 c 465 art 1 s 32]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 [Repealed, 1987 c 268 art 16 s 45]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.

Subd. 8. **Federal tax law.** "Federal tax law" means those provisions of the Internal Revenue Code of 1986, as amended through December 31, 1990, 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. 8a. **Housing pool.** "Housing pool" means the amount of the annual volume cap allocated under section 474A.061 which is available for mortgage credit certificates or the issuance of residential rental project bonds or mortgage bonds.

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 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]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 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]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 [Repealed, 1986 c 465 art 1 s 32; 1987 c 268 art 16 s 45]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 [Repealed, 1987 c 268 art 16 s 45]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. **Small issue pool.** "Small issue pool" means the amount of the annual volume cap allocated under section 474A.061, that is available for the issuance of enterprise zone facility bonds authorized under Public Law Number 103-66, section 13301, small issue

bonds to finance manufacturing projects, and the agricultural development bond-beginning farmer and agricultural business enterprise loan program authorized in sections 41C.01 to 41C.13.

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 sections 469.001 to 469.047, or a body authorized to exercise the powers of a housing and redevelopment authority, a port authority referred to in sections 469.048 to 469.089, or a body authorized to exercise the powers of a port authority, an economic development authority referred to in sections 469.090 to 469.108, an area or municipal redevelopment agency referred to in sections 469.109 to 469.123, 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 and the acquisition or improvement of agricultural real or personal property under sections 41C.01 to 41C.13;

- (e) "student loan bonds";
- (f) "redevelopment bonds";
- (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; and
- (h) "enterprise zone facility bonds" issued to finance facilities located within empowerment zones or enterprise communities, as authorized under Public Law Number 103-66, section 13301.

Subd. 23b. **Rent.** "Rent" means the total monthly cost of occupancy payable directly by the tenant and the cost of any utilities, other than telephone. It does not include a charge for a service that is not required as a condition of occupancy.

Subd. 23c. **Single-room occupancy unit.** "Single-room occupancy unit" means an enclosed dwelling space which does not include within the space a separate bedroom and is suitable for occupancy by one individual person capable of independent living.

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; 1991 c 332 s 19,20; 1991 c 346 s 3-10; 1994 c 527 s 1-3

474A.025 DEADLINE DATES AND TIMES.

All applications, notices, and other materials required to be filed or submitted to the department pursuant to this chapter must be received by the department no later than 4:30 p.m. on the deadline day or date. When an application, notice, or other required material is required to be filed or submitted to the department on or before a prescribed day or date and the prescribed day or date falls on a Saturday, Sunday, or legal holiday, it is timely filed or submitted if it is received by the department by 4:30 p.m. on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

History: 1996 c 362 s 7

474A.03 DETERMINATION OF ANNUAL VOLUME CAP.

Subdivision 1. **Under federal tax law; allocations.** At the beginning of each calendar year after December 31, 1997, 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) \$63,000,000 to the small issue pool;
- (2) \$59,000,000 to the housing pool, \$37,000,000 of which is reserved until the day after the first Monday in February for single-family housing programs;
- (3) \$10,500,000 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 (4), 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 and county:

(1) \$53,750,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 474A.091, subdivision 6;

(2) \$21,000,000 per year to the city of Minneapolis;

(3) \$15,750,000 per year to the city of Saint Paul; and

(4) \$10,500,000 per year to the Dakota county housing and redevelopment authority for the county of Dakota and all political subdivisions located within the county.

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, public facility bonds, or residential rental project bonds, except that entitlement issuers may also use their allocations for public facility bonds, and may carry forward their allocations for any qualified bond as defined under section 474A.02, subdivision 23a.

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

Subd. 4. **Application fee.** Every entitlement issuer and other issuer shall pay to the commissioner a nonrefundable application fee to offset the state cost of program administration. The application fee is \$20 for each \$100,000 of entitlement or allocation requested, with the request rounded to the nearest \$100,000. The minimum fee is \$20. Fees received by the commissioner must be credited to the general fund. Application fees for projects of entitlement issuers must be submitted to the commissioner with the notice of issuance of bonds, notice of use of mortgage credit certificates, and notice of carry forward.

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; 1991 c 332 s 21; 1991 c 345 art 1 s 96; 1991 c 346 s 11; 1992 c 545 art 1 s 3; 1994 c 527 s 4; 1995 c 167 s 6,7; 1997 c 169 s 1,2

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.** Any amount returned by an entitlement issuer before July 15 shall be reallocated through the housing pool. Any amount returned on or after July 15 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. Any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued or for which the governing body of the entitlement issuer has not enacted a resolution electing to use the authority for mortgage credit certificates by July 15 of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the current calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be reallocated through the unified pool. An entitlement issuer must permanently issue all carryforward authority or enact a resolution electing to use all carryforward authority for mortgage credit certificates prior to issuing any current year authority of that entitlement issuer.

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; 1991 c 346 s 12; 1992 c 545 art 1 s 4; 1994 c 527 s 5; 1997 c 169 s 3

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 seasonally unadjusted 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 seasonally unadjusted 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 economic security 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; 1994 c 483 s 1; 1998 c 363 s 3

474A.047 RESIDENTIAL RENTAL BONDS; LIMITATIONS.

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

(1) 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;

(2) 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; or

(3) the proposed project is a multifamily project that meets the following requirements:

(i) the proposed project is the rehabilitation of an existing multifamily building which meets the requirements for minimum rehabilitation expenditures in sections 42(e)(2) and 42(e)(3)(A) of the Internal Revenue Code;

(ii) the proposed project involves participation by the Minnesota housing finance agency or a local unit of government in the financing of the acquisition or rehabilitation of the project. For purposes of this subdivision, "participation" means an activity other than the issuance of the bonds; and

(iii) the proposed project must be occupied by individuals or families whose incomes at the time of their initial residency in the project meet the requirements of section 42(g) of the Internal Revenue Code.

(b) The maximum rent for a proposed single room occupancy unit under paragraph (a), clause (1), 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 at least 75 percent of the units of a multifamily project under paragraph (a), clause (2), 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 1.5 persons per bedroom.

(c) The proceeds from residential rental bonds may be used for a project for which project-based federal rental assistance payments are made only if:

(1) the owner of the project enters into a binding agreement with the Minnesota housing finance agency under which the owner is obligated to extend any existing low-income affordability restrictions and any contract or agreement for rental assistance payments for the maximum term permitted, including any renewals thereof; and

(2) the Minnesota housing finance agency certifies that project reserves will be maintained at closing of the bond issue and budgeted in future years at the lesser of:

(i) the level described in Minnesota Rules, part 4900.0010, subpart 7, item A, subitem (2), effective May 1, 1997; or

(ii) the level of project reserves available prior to the bond issue, provided that additional money is available to accomplish repairs and replacements needed at the time of bond issue.

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. The issuer shall monitor project compliance with the rental rate and income level requirements under subdivision 1. The issuer may issue an order of noncompliance if a project is found by the issuer to be 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 issuer equal to one-half of one percent of the total amount of bonds issued for the project under this chapter if the issuer issues an order of noncompliance. 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 issuer may waive insubstantial violations.

History: 1990 c 552 s 7; 1991 c 346 s 13,14; 1992 c 545 art 1 s 5; 1993 c 164 s 4; 1994 c 527 s 6; 1997 c 169 s 4

474A.048 [Repealed, 1991 c 346 s 29]

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, 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 July, or in the amount of two percent of the requested allocation on or after the last Monday in July, (5) a public purpose scoring worksheet for manufacturing project applications, and (6) a statement from the applicant or bond counsel as to whether the

project preserves existing federally subsidized housing for residential rental project applications. The issuer must pay the application deposit by a check made payable to the department of finance. The Minnesota housing finance agency, the Minnesota rural finance authority, and the Minnesota higher education services office 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. This paragraph does not apply to an application from the Minnesota housing finance agency for an allocation under subdivision 2a for cities who choose to have the agency issue bonds on their behalf.

(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 the first Monday in February, 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 are not restricted to persons who are 55 years of age or older and that meet the eligibility criteria under section 474A.047, except that allocations may be made to projects that are restricted to persons who are 55 years of age or older, if the project preserves existing federally subsidized housing. Projects that preserve existing federally subsidized housing shall be allocated available bonding authority in the housing pool for residential rental projects prior to the allocation of available bonding authority to other eligible residential rental projects. If an issuer that receives an allocation under this paragraph does not issue obligations equal to all or a portion of the allocation received within 120 days of the allocation or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the housing pool.

(b) After February 1, and through February 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 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:

(i) the greater of agency house price limits or the federal price limits for housing up to a maximum of \$95,000;

(ii) for a new construction affordability initiative, the greater of 115 percent 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 \$95,000;

(iii) for new construction housing affordability initiatives located in the metropolitan area, as defined by section 473.121, subdivision 2, the lesser of the federal price limits or the amount determined by the metropolitan council as the maximum affordable house price under the Metropolitan Livable Communities Act. New construction housing affordability initiatives in the metropolitan area must meet one or more of the following criteria:

(A) the initiative provides financial resources unrelated to the costs of completion of the mortgage revenue bond sale to reduce the cost of the housing or to improve the terms of the mortgage loans provided through the bond sale. A financial contribution must be equal to or exceeding ten percent of the purchase price of each newly constructed home to be financed;

(B) the initiative provides that the local unit of government in the jurisdiction in which the housing is to be constructed takes affirmative steps to change local regulations in order to

improve housing affordability. The steps must demonstrably reduce the cost of the housing by at least ten percent. The financial contribution and the affirmative steps to change regulation may be combined to meet the ten percent requirement; or

(C) the initiative supports the efforts of housing groups that support self-help or owner-built housing initiatives in which at least 15 percent of the labor or materials or both needed to complete the new housing is acquired or donated through the efforts of such groups; or

(iv) for a community revitalization initiative for existing housing in the metropolitan area, as defined by section 473.121, subdivision 2, the federal price limits for existing housing, provided the community revitalization initiative meets the following criteria:

(A) the community revitalization initiative is targeted to a specific geographic area within the community which is less than the entire community;

(B) the community revitalization initiative is located in a community in which the most recently available data establishes that the median purchase price for an existing home in the community exceeds the agency house price limits; and

(C) the community revitalization initiative provides financial resources unrelated to the costs of completion of the mortgage revenue bond sale to reduce the cost of the housing or to improve the terms of the mortgage loans provided through the bond sale. A financial contribution must be equal to or exceeding ten percent of the purchase price of each existing home to be financed.

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; and

(4) an application deposit equal to one percent of the requested allocation must be submitted before the agency forwards the list specifying the amounts allocated to the commissioner under paragraph (c). The agency shall submit the city's application and application deposit to the commissioner when requesting an allocation from the housing pool.

Applications by a consortium shall include the name of each member of the consortium and the amount of allocation requested by each member.

The Minnesota housing finance agency may accept applications from June 15 through June 30 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (4) if bonding authority is available in the housing pool. Applications will be accepted from June 15 to June 30 only from cities that received an allotment in the same calendar year and used at least 75 percent of their allotment by June 1. Allotments will be made loan by loan, on a first come, first served basis among applicant cities. The agency must allot available bonding authority. For purposes of paragraphs (a) to (g), "city" means a county or a consortium of local government units that agree through a joint powers agreement to apply together for single-family housing programs, and has the meaning given it in section 462C.02, subdivision 6. "Agency" means the Minnesota housing finance agency.

(c) The total amount of allocation for mortgage bonds for one city is limited to the lesser of: (i) the amount requested, or (ii) the product of the total amount available for mortgage bonds from the housing pool, multiplied by the ratio of each applicant's population as determined by the most recent estimate of the city's population released by the state demographer's office to the total of all the applicants' population, except that each applicant shall be allocated a minimum of \$100,000 regardless of the amount requested or the amount determined under the formula in clause (ii). If a city applying for an allocation is located within a county that has also applied for an allocation, the city's population will be deducted from the county's population in calculating the amount of allocations under this paragraph.

Upon determining the amount of each applicant's allocation, the agency shall forward a list specifying the amounts allotted to each application and application deposit checks to the commissioner.

(d) 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 after the first Monday in February and through the last Monday in July, but may request an allocation no later than the last

Monday in July. The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (b), clause (4), but was not part of the list forwarded to the commissioner under paragraph (c).

(e) A city may choose to issue bonds on its own behalf or through a joint powers agreement or may use bonding authority for mortgage credit certificates 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 list forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the list under paragraph (c) has been forwarded to the commissioner. A city must request an allocation from the commissioner no later than 14 days before the unified pool is created pursuant to section 474A.091, subdivision 1. On and after the first Monday in February and through the last Monday in July, 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.

If a city issues mortgage bonds from an allocation received under this paragraph, 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.

(f) No entitlement city or county or city in an entitlement county may apply for or be allocated authority to issue bonds or use mortgage credit certificates from the housing pool.

(g) A city that does not use at least 50 percent of their allotment by the date applications are due for the first allocation that is made from the housing pool for single-family housing programs in the immediately succeeding calendar year may not apply to the housing pool for a single-family mortgage bond or mortgage credit certificate program allocation or receive an allotment from the housing pool in the succeeding two calendar years. Each local government unit in a consortium must meet the requirements of this paragraph.

Subd. 2b. Small issue pool allocation. On the first Monday in January that is a business day through the last Monday in July, the commissioner shall allocate available bonding authority from the small issue pool on Monday of each week to applications received on or before the Monday of the preceding week. From the first Monday in January that is a business day through the last Monday in July, the commissioner shall reserve \$5,000,000 of the available bonding authority from the small issue pool for applications for agricultural development bond loan projects of the Minnesota rural finance authority. 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, based upon the number of points received.

If there are two or more applications for manufacturing projects from the small issue pool and there is insufficient bonding authority to provide allocations for all projects in any one week, 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. If two or more applications receive an equal number of points, 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 and continuing for a period of 120 days, the commissioner shall reserve \$5,000,000 of the available bonding authority from the public facilities pool for applications for public facilities projects to be financed by the Western Lake Superior Sanitary District. On the first Monday in January that is a business day through the last Monday in July, 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 available bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Subd. 3. [Repealed, 1998 c 363 s 9]

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 120 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 120-day period since allocation has expired prior to the last Monday in July, 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 120-day period since allocation has expired on or after the last Monday in July, 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 120 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 120 days of receiving allocation.

(c) No refund shall be available for allocations returned 120 or more days after receiving the allocation or beyond the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency or the Minnesota rural finance authority.

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

Subd. 6. **Deadline for issuance of qualified 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 any qualified bond 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; 1991 c 332 s 22-25; 1991 c 346 s 15-20; 1992 c 545 art 1 s 6,7; 1993 c 164 s 5; 1994 c 527 s 7,8; 1995 c 167 s 8-11; 1995 c 186 s 93; 1995 c 212 art 3 s 59; 1996 c 362 s 8-10; 1997 c 169 s 5; 1998 c 363 s 4-6

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 Subdivision 1. [Repealed, 1991 c 199 art 1 s 78; 1991 c 346 s 29]

Subd. 2. [Repealed, 1991 c 199 art 1 s 78; 1991 c 346 s 29]

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

Subd. 4. [Repealed, 1991 c 199 art 1 s 78; 1991 c 346 s 29]

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 July any bonding authority remaining unallocated from the small issue 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.** Issuers 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 manufacturing 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 August. Notwithstanding the restrictions imposed on unified pool allocations after September 1 under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after September 1. The Minnesota housing finance agency, the Minnesota higher education services office, and the Minnesota rural finance authority 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 August 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 September 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for enterprise zone facility bonds;
- (2) applications for small issue bonds for manufacturing projects;
- (3) applications for small issue bonds for agricultural development bond loan projects;
- (4) applications for residential rental project bonds;
- (5) applications for public facility projects funded by public facility bonds;
- (6) applications for redevelopment bonds;
- (7) applications for mortgage bonds; and
- (8) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in August. 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, based upon the number of points received. 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. If two or more applications receive an equal amount of points, available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c)(1) From the first Monday in August through the last Monday in November, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the small issue pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the small issue pool for that year, whichever is less, is reserved within the unified pool for small issue bonds to the extent such amounts are available within the unified pool. On the first Monday in September through the last Monday in November, \$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 to the extent such amounts are available within the unified pool.

(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.

(d) After September 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds to finance publicly owned facility projects, residential rental project bonds, and enterprise zone facility bonds.

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 120 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 120-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. If the issuer notifies the department on or 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 120 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 120 days of receiving the allocation.

(c) 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, or the Minnesota rural finance authority.

Subd. 6. Final allocation; carryforward. Any bonding authority remaining unissued by the Minnesota housing finance agency shall be carried forward into the next calendar year

by the Minnesota housing finance agency in accordance with section 474A.131, subdivision 2.

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; 1991 c 332 s 26; 1991 c 346 s 21-24; 1992 c 545 art 1 s 8,9; 1994 c 527 s 9,10; 1995 c 167 s 12,13; 1995 c 212 art 3 s 59; 1996 c 362 s 11; 1997 c 169 s 6,7; 1998 c 363 s 7,8

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. A penalty of one-half of the amount of the application deposit not to exceed \$5,000 shall apply to any issue of obligations for which a notice of issue is not provided to the department within five business days after issuance or before the last Monday in December, whichever occurs first. 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, less any penalty amount.

Subd. 1a. **Certificate of notice.** If an allocation received under this chapter is used for mortgage credit certificates, a certificate notice must be submitted to the department on forms provided by the department stating the date of the filing of the election not to issue bonds as provided under section 25, paragraph (c), of the Internal Revenue Code and the amount of allocation authority to be used under the program.

A penalty of one-half of the amount of the application deposit not to exceed \$5,000 shall apply to any mortgage credit certificate program for which a certificate notice is not provided to the department within five days of the date of the filing of the election not to issue bonds or before the last Monday in December, whichever occurs first. Within 30 days after receipt of a certificate notice the department shall refund a portion of the application deposit equal to one percent of the amount of the bonding authority to be used for the mortgage credit certificate program, less any penalty amount.

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.

Subd. 3. **Irrevocable allocation.** The department may not revoke an allocation received under this chapter after receiving a notice of issue or certificate notice from the issuer.

History: 1987 c 268 art 16 s 33; 1990 c 552 s 20; 1991 c 346 s 25; 1994 c 527 s 11,12; 1995 c 167 s 14; 1996 c 362 s 12,13; 1997 c 169 s 8,9

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, small issue, 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 August 1 as possible.

History: 1986 c 465 art 1 s 22; 1987 c 268 art 16 s 34; 1990 c 552 s 21; 1991 c 332 s 27; 1996 c 362 s 14

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 this chapter.

History: 1986 c 465 art 1 s 23; 1987 c 268 art 16 s 35; 1991 c 346 s 26

474A.16 EXCLUSIVE METHOD OF ALLOCATION.

This chapter is 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; 1991 c 346 s 27

474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.

Chapter 14, including section 14.386, does not apply to actions taken by any state agency or entity under this chapter.

History: 1986 c 465 art 1 s 25; 1987 c 268 art 16 s 37; 1991 c 346 s 28; 1997 c 187 art 4 s 9

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