

## MINNESOTA HOUSING FINANCE AGENCY

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Proposed Adoption of Rules Governing  
the Rental Rehabilitation Loan Program  
Without a Public Hearing.

STATEMENT OF  
NEED AND REASONABLENESS

The Minnesota Housing Finance Agency (hereinafter referred to as the "MHFA") is authorized in Minnesota Statute § 462A.06, subdivisions 4 and 11, to promulgate both temporary and permanent rules. In 1979, the Minnesota Legislature enacted Laws 1979, Chapter 327, Section 4 which authorized the Agency to create a Rental Rehabilitation Loan Program (hereinafter referred to as the "RRLP"). The Agency, pursuant to such authority, implemented a demonstration program, and promulgated temporary rules therefore which were approved by the Attorney General's Office on the 15th day of April, 1981. In the 1981 Legislative session the Minnesota Legislature enacted Laws 1981, Chapter 306, Section 8, which recodified the prior Legislation which authorized the Agency to operate a RRLP. Also, in 1981 the Agency converted the RRLP from a demonstration program to a permanent program, and promulgated the rules which are the subject of this Statement of Need and Reasonableness.

The Minnesota Legislature previously enacted Minnesota Statute § 116H.129, subdivision 3, which requires property owners to bring rental property they own into compliance with certain energy conservation standards which are contained therein. This can impose a severe financial burden upon the property owner, and may act as an impediment to the continued operation of the property as rental property. Under the RRLP, property owners may obtain loans to assist them in rehabilitating their rental property to bring it into compliance with the requirements of Minnesota Statute § 116H.129, subdivision 3, and the Agency secures the repayment of the loan by obtaining a mortgage on the property.

The Agency currently anticipates that the loans it makes or purchases under the RRLP will be submitted to the Federal Housing Administration (hereinafter referred to as the "FHA") for insurance under its Title I Program.

The proposed rules amend the Agency's Rules by inserting a new Chapter 6A which is codified as 12 MCAR §§ 3.053 and 3.054. It is reasonable and necessary to adopt new rules to assist in the implementation of a new permanent program.

12 MCAR § 3.053 A.

The requirements contained in this proposed rule correspond to requirements imposed by the FHA under its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program, it is necessary to adopt such requirements, and the proposed rule is therefore necessary and reasonable.

12 MCAR § 3.053 B.

In order to insure that a loan made under the RRLP will be repaid, it is necessary and reasonable to require that an applicant be a reasonable credit risk and satisfy normal credit standards. Therefore, the requirements contained in the proposed rule are necessary and reasonable.

12 MCAR § 3.053 C.

The requirements in this proposed rule correspond to requirements in the enabling Legislation. In enacting such Legislation the Minnesota Legislature deemed that such requirements

are necessary and reasonable, and therefore, the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.053 D.

The Agency intends on protecting itself against any defaulted loans by obtaining a security interest, in the form of a mortgage, in the property to be improved with the proceeds of a loan made under the RRLP, and upon default of a loan it may obtain title to the property. The Agency could have problems in disposing of such property if the property did not comply with applicable zoning ordinances or other applicable land use guides. Therefore, in order to minimize problems in disposing of defaulted property, the requirements contained in the proposed rule are necessary and reasonable.

12 MCAR § 3.053 E.

The enabling Legislation states that the Agency may make or purchase loans on rental property which does not comply with the standards established in Minnesota Statute § 116H.129, subdivision 3. The wording in this proposed rule corresponds to the wording in Minnesota Statute § 116H.129 which describes the type of rental property that must comply with subdivision 3 thereof. In enacting Minnesota Statute § 116H.129, the Minnesota Legislature deemed what would be reasonable and necessary as to the type of rental property that should comply therewith, and therefore the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.053 F.

The RRLP is a property rehabilitation program, and therefore it is necessary and reasonable to limit the use of the loan proceeds from such program to finance only improvements for existing structures.

12 MCAR § 3.053 G.

The requirement contained in this proposed rule corresponds to a requirement imposed by the FHA in its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program it is necessary to adopt such a requirement, and this proposed rule is therefore necessary and reasonable.

12 MCAR § 3.053 H.

The Agency does not wish to compete with private lenders, and therefore it is reasonable and necessary to require that conventional financing not be available from private lenders upon equivalent terms and conditions.

12 MCAR § 3.053 I.

The enabling Legislation states that loans made under the RRLP must be for property that is occupied or intended for occupancy primarily by low and moderate income tenants. This proposed rule delineates what will satisfy the requirement that the occupancy be primarily by low and moderate income tenants. The requirements for structures containing six rental units or less are the maximum that could be imposed without requiring all of the rental units to be rented to such individuals, and therefore they are reasonable and necessary. A requirement of 75% for all other structures is a reasonable interpretation of the meaning of the word "primarily", and a specific interpretation for such requirement is necessary.

12 MCAR § 3.054 A.

The requirements in this proposed rule correspond to the requirements in the enabling Legislation. In enacting such Legislation the Minnesota Legislature deemed that such require-

ments are necessary and reasonable, and in the incorporation of such requirements into the proposed rule is necessary and reasonable.

12 MCAR § 3.054 B.

The enacting Legislation only states that for property over 15 years old, the proceeds of a loan made under the RRLP may also be used for moderate rehabilitation of the property, but does not indicate what types of improvements will satisfy such requirement. Therefore it is necessary to delineate what types of improvements will qualify under the "moderate rehabilitation" wording of the enabling Legislation.

The basic charter of the Agency is to assist in the acquisition, production, rehabilitation and repair of housing for the residents of the State of Minnesota, and to improve the basic livability safety and utility of such. Therefore, it is reasonable and necessary to impose the requirements that are contained in the proposed rule.

12 MCAR § 3.054 C.

The intent of the RRLP is to assist property owners by providing loans, the proceeds of which will be used to bring structures into compliance with state energy conservation standards. The RRLP is not intended as a vehicle by which property owners can obtain funds to bring structures into compliance with any other code or standard. Therefore it is reasonable and necessary to only require that the work performed comply with all applicable codes and standards, and that the structure be brought into full compliance only with State Energy Conservation Standards.

12 MCAR § 3.054 D.

The requirements contained in this proposed rule correspond to requirements imposed by the FHA under its Title I Program. In order for loans made under the RRLP to satisfy the requirements of the FHA Title I Program, it is necessary to adopt such requirements, and the proposed rule is therefore necessary and reasonable.

12 MCAR § 3.054 E.

Since the Agency possesses a mortgage on the improved property as security for repayment of the loans made under the RRLP, it is reasonable and necessary for the Agency to insure that the work performed is done in a satisfactory manner. Therefore, it is reasonable and necessary for the Agency to require that all work be covered by a warranty in a form acceptable to it.