

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed
Adoption of Rules of the Minnesota
Housing Finance Agency Governing
the Home Energy Loan Program

Amendment to
Statement of Need and Reasonableness

4900.0592

Paragraph E is amended based on comments received from the Minnesota Manufactured Housing Association. The intent of the paragraph is not changed by the amendment. Rather, the revised language clarifies that manufactured housing which is permanently fixed to land and is taxed as real property is considered an eligible property. It also removes the term mobile home, which is no longer commonly used by the industry and replaces it with the term manufactured housing.

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Statement of Need and Reasonableness

4900.0590

This part sets forth definitions for the purposes of Parts 4900.0590 to 4900.0594.

Subp. 2

Borrower is defined as one or more persons who apply for and receive a home energy loan. A borrower must be a person or family but need not be of low and moderate income. The definition is necessary to delineate the entities who may borrow under this program. The limitation to persons and families and the lack of income limitations are specifically set forth in the statute authorizing the program.

Subp. 3

Home Energy Loan is defined as a loan made to a borrower, the proceeds of which are used for energy conservation improvements in an eligible property.

Subp. 4

Persons and Families of Low and Moderate Income are defined as persons and families whose adjusted income does not exceed \$24,000. This definition is necessary to clarify which borrowers may obtain the preferences described in Part 4900.0594. This definition of low and moderate income coincides with the same definition for the agency's Home Improvement Loan Program. This is a reasonable definition because the loans are of a similar nature and are available at similar rates of interest.

4900.0591

This part establishes eligibility criteria for borrowers in the Home Energy Loan Program.

Subp. 1

This subpart requires that the borrower must have at least a one-third interest in the property to be improved. This requirement is necessary because the program will be financed with the proceeds of tax-exempt bonds. The regulations governing such bonds require that the borrower have at least a one-third interest in the property to be improved.

Subp. 2

This subpart requires that the borrower shall be a reasonable credit risk and able to repay the loan obligation. This requirement is necessary to ensure that the Agency is able to repay the bonds used to finance the program. It is reasonable for the Agency to limit participation in the program to those borrowers who will repay the Agency, thereby enabling the Agency to repay its obligations.

Subp. 3

This subpart requires that the borrower occupy the property to be improved as his or her principal place of residence. This requirement is necessary because the program will be financed with the proceeds of tax-exempt bonds. The regulations governing such bonds require that the borrower occupy the property to be improved as his or her principal place of residence.

4900.0592

This part sets restrictions on the kinds of properties to be improved.

Paragraph A restricts the size of the property to be improved to no more than one dwelling unit. This restriction is necessary to promote widespread lender participation in the program. Federal regulations relating to the use of the proceeds of tax-exempt bonds require that multi-unit properties have been used as a residence for the previous five years. These same regulations require significant additional documentation to ensure multi-unit properties meet that standard. Inclusion of multi-unit properties could deter lenders from participating and hinder the Agency's ability to deliver the program on a statewide basis. The restriction is reasonable because the Agency provides other financial resources for energy conservation programs for multi-unit properties.

Paragraph B requires that the property to be improved may not be in violation of applicable zoning ordinances or other land use guides. The restriction is reasonable because the Agency should not encourage investment in properties that violate public policy regarding their use or location.

Paragraph C prohibits more than 15% of the total area of the property to be improved to be used primarily in a trade or business. This restriction is necessary for loans to comply with federal regulations relating to the use of proceeds from tax-exempt bonds.

Paragraph D prohibits loan funds from being used to improve investment property or recreational homes. This restriction is necessary for loans to comply with federal regulations relating to the use of proceeds from tax-exempt bonds.

Paragraph E prohibits loan funds from being used to improve mobile homes. This restriction is necessary for loans to comply with federal regulations relating to the use of proceeds from tax-exempt bonds.

4900.0593

This part sets forth requirements related to eligible uses of loan proceeds, availability of conventional financing, and participants in loan applications.

Subp. 1

This subpart sets forth eligible uses of loan proceeds.

Paragraph A restricts eligible improvements to permanent improvements made upon or in connection with an existing structure for purposes of improving the energy efficiency of the structure. The restriction that improvements be made only to existing structures for the purpose of improving energy efficiency is necessary to ensure compliance with the statute creating the program. Federal regulations relating to the use of proceeds from tax-exempt bonds also require that improvements be made only to existing structures.

Paragraph B requires that improvements be made in compliance with applicable health, fire prevention, building, or housing codes and standards. This requirement is necessary to ensure the health and safety of the borrower and the community in which the property is located. It is reasonable for the Agency to encourage borrowers to comply with such standards. The paragraph does not require that the property be brought into full compliance with such codes and standards and, thereby, complies with the statute creating the program. This is reasonable since the cost of bringing properties into full compliance could be prohibitive and thereby discourage participation in the program and conservation of energy.

Paragraph C restricts the use of home energy loan proceeds to financing new improvements. Loan proceeds may not be used to refinance an existing loan or mortgage. These restrictions are reasonable because one of the home energy loan program's purposes is to encourage energy conservation improvements by providing an incentive through low interest rates. If funds are used to pay for improvements already completed or to refinance debt incurred in connection with previously completed energy improvements, the program will fail because the

incentive did not stimulate energy conservation. The restrictions are necessary to ensure compliance with federal regulations relating to the use of proceeds of tax-exempt bonds.

Paragraph D requires that the borrower agrees to complete all improvements within nine months of the date of the loan. It is necessary to set a maximum period of time in which improvements must be completed so that borrowers understand the performance standards they must meet and the Agency can determine if improvements have been or will be performed. The nine-month period is reasonable in that it allows sufficient time for borrowers to perform the improvements but a short enough period to keep materials and labor costs from changing drastically from the time the loan is made.

Subp. 2

This subpart prohibits home energy loans from being made when conventional financing is available from private lenders upon equivalent terms and conditions. This requirement is necessary to comply with the statute creating the Home Energy Loan Program.

Subp. 3

This subpart requires that if a borrower wishes to obtain the preference for persons and families of low and moderate income, all persons who, individually or collectively, possess the type of ownership upon which the application is based, or whose income is to be included for purposes of determining the adjusted income, and spouses of these shall join in the application and shall execute the loan note. Where the borrower wishes to obtain the preference as a person and family of low and moderate income, it is necessary for the others specified above to join in the application to demonstrate that the household is of low and moderate income. It is reasonable to require those who join in the application to execute the loan note because all who join in an application are committing their resources to repayment of the loan. Because low and moderate income borrowers have fewer resources with which to repay their loan, it is reasonable for the Agency to seek additional security for the loan by requiring all in the household with incomes to join in the application and execute the loan note. It is also reasonable to require the spouse, whether or not he or she has an income, to join in the application and execute the loan note since he or she will benefit directly from the improved property.

4900.0594

This part sets forth preferences the Agency may, in its sole discretion, give to persons and families of low and moderate income. Preferences to low and moderate income persons and families include lower rates of interest, special allocations of funds for their use, and other methods the Agency deems appropriate. Another purpose of the home energy loan program is to make energy improvements affordable. Provision of such preferences is reasonable in that it ensures that

affordable home energy loan funds will be available to those who are in greatest need of them, either through lower interest rates or a special allocation of funds.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking; however, since the recipients of the funds under the Home Energy Loan Program must be individuals who will use the funds to finance energy conservation measures, the proposed rules do not affect small businesses directly, and the said law, by its terms, is inapplicable to the proposed rules. In addition, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make such funds more readily available and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minn. Stat. 14.115 (1983 Supp.) do not apply to the proposed rules discussed herein.