

State of Minnesota

Minnesota Housing Finance Agency

In the Matter of the Proposed Rules
Relating to the Housing Preservation
Program.

Statement of Need and Reasonableness

Minnesota Statutes Section 462A.203, Subdivisions 1-4 (1989) authorize the Minnesota Housing Finance Agency to establish a program for making housing preservation grants to cities. These rules are proposed to direct program implementation.

Proposed Rule 4900.0010, Subpart 23.F. defines low and moderate income to be 100% of the area median family income, as defined by the United States Department of Housing and Urban Development (HUD).

A definition of low and moderate income is necessary for the purpose of identifying eligible mortgagors, which is one type of eligible borrower under this program.

The definition is reasonable as a means for ensuring that moderate income persons and families without the resources of higher income individuals will benefit from the program.

Proposed Rule 4900.2210, Subparts 1-7 provides necessary definitions.

Subpart 1 is necessary to identify the parts of the rules for which the definitions in this part are applicable.

Subpart 2 identifies the Minnesota Housing Finance Agency as the program administrator.

Subpart 3 defines "city," which is identified in Subdivision 1 of the legislation as the eligible grant applicant. This language is now a definition in Agency enabling legislation by action of the 1989 Legislature.

Subpart 4 is necessary to define who may be eligible to receive revolving loans made with grant funds. The rule is reasonable because the statute specifically limits the amount of dollars that may be loaned to noneligible mortgagors to 25% of the grant amount awarded to a city. Because a borrower may only be either an eligible mortgagor or a noneligible mortgagor, it is reasonable that eligible mortgagors be borrowers in the program.

The limitation of noneligible mortgagors to natural persons is reasonable because the statute limited noneligible mortgagors to those with incomes not exceeding 110 percent of the area median income. While not explicit in the statute, area median income is believed to be the area median income established by HUD, which is personal income and not the income of some other entity, such as a corporation, which may be considered a noneligible mortgagor.

Subpart 5 is necessary to identify the parts of the rules which apply to the program.

Subpart 6 clarifies the requirement from Subdivision 1 of the legislation that state grant funds must be used by cities to establish "revolving loan" programs. A revolving loan is interpreted as requiring full payback at some point, meaning that loans partially or totally forgiven in a grantlike manner cannot be made.

Subpart 7 defines target area as those areas meeting the condition described in 462A.203 Subdivision 2.

Proposed Rule 4900.2220 sets out program purpose. Subdivision 1 of the legislation requires that preservation grants must be made to cities for establishing revolving loan programs for the acquisition, improvement or rehabilitation of residential buildings. Subdivision 2 of the legislation requires that a program must operate in a location documented and designated by city council as meeting the target area definition.

Proposed Rule 4900.2230 is necessary to ensure to the greatest extent possible that loans will be repaid and, therefore, funds revolved to achieve the maximum effect possible in the target area. It is a reasonable lending practice to require that loan terms match building and improvement type.

Proposed Rule 4900.2240 is necessary to comply with the requirement that target areas be designated by city council resolution. Because target areas must be designated by city council resolution, it is reasonable to require that changes in a target area also be designated by city council resolution. It is reasonable that MHFA approve changes in target areas because MHFA would have approved the original target area in the grant application process.

Proposed Rule 4900.2250 sets out the terms from Subdivision 3 of the legislation for program match requirements and categories of eligible resources.

Proposed Rule 4900.2260 sets out the requirement from Subdivision 4 of the legislation that before any loans are made, an advisory committee must be in place to assist in program implementation. Cities have been given the flexibility to determine this group's membership and responsibilities.

Proposed Rule 4900.2270 sets out the type of guidelines the Agency will use in evaluating and awarding preservation grants. All of the review criteria listed reflect either legislative requirements, practical management standards, or procedures needed to award funds equitably around the state.

The Agency is cognizant of the provisions of Section 14.115 of Minnesota Statutes, entitled Small Business Considerations in Rulemaking. To the extent that the loan funds directly benefit the low and moderate income occupants in structures within the Agency's Program, the statute is inapplicable. To the extent that the funds may inure to the benefit of small businesses, the proposed rules do not establish any compliance or reporting requirements, design or operational standards not mandated by the federal government, and the effect of the Agency's Program in making the loan funds available is to make decent, safe, and sanitary housing affordable primarily for low and moderate income persons and, as a consequence, the proposed regulations have no negative effect on small businesses.