

**STATE OF MINNESOTA
MINNESOTA HOUSING FINANCE AGENCY**

**In the Matter of the Proposed
Amendment of Rules Governing
Rehabilitation Grants and Loans
Rules Part 4900.0010 Subp. 23(D)**

**Statement of Need
and Reasonableness**

I. Introduction

The Minnesota Housing Finance Agency (Agency) proposes to amend rules governing the income limits of the Rehabilitation Loan Programs. All loans provide financing for basic health, safety, energy saving and accessibility improvements to low income homeowners. There are three types of Rehabilitation Loans. Deferred Loans are for general property rehabilitation and do not have to be repaid if the homeowner remains living in the property for ten years after the date of the loan. Accessibility Deferred Loans are made solely for the benefit of a disabled member of the household and are not required to be repaid if the homeowner remains living in the property for five years. Revolving Loans which are three percent installment loans made to homeowners who are over income for a Deferred Loan but who cannot obtain a home improvement loan from a conventional source.

The Agency has prepared this Statement of Need and Reasonableness (SNR) to explain its proposed rule amendment and satisfy the rulemaking requirements of the Minnesota Administrative Procedures Act, Minnesota Statutes Chapter 14 (1992).

Part II of this SNR describes the statutory authority of the Agency to undertake this rulemaking. Part III describes the need for the proposed rule amendment and Part IV describes the reasonableness of the proposed rules. Part V addresses small business considerations in rulemaking, as required of Minnesota Statutes, Section 14.115 (1992); Part VI addresses the fiscal note requirements of Minnesota Statute Section 14.11; and Part VII consists of required dates and signatures. A fee requirement disclosure is unnecessary because the proposed rules do not establish or adjust fees as contemplated in Minnesota Statutes Chapter 16A.128 (1992).

The proposed rules were drafted after discussions with representatives of the sixty-three local agencies who deliver the programs on a statewide basis. These agencies include Community Action Agencies, Housing and Redevelopment Authorities and Social Service Agencies. The Agency drafted these proposed rules based on these discussions as well as the constitutional and statutory requirements of the Program and its funding source. The Agency board of directors has also reviewed and approved the proposed rule amendment.

II. Statutory Authority of Proposed Rules and Funding Source

The Agency's statutory authority to adopt rules to comply with Chapter 14 is set forth in Minnesota Statutes, Section 462A.06, subdivision 4 and 11 (1992).

The Agency's authority to implement the Program is set forth in Minnesota Statutes Section 462A.05, subdivision 14a which provides that the Agency may make rehabilitation loans with or without periodic payments.

III. Statement of Need

Minnesota Statutes Chapter 14 (1992) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious.

However, to the extent that need and reasonableness are separate, need means a problem exists which needs administrative attention, and reasonableness means the solution proposed by the Agency is appropriate. The need for the proposed rules is discussed below. The reasonableness of the proposed rules is discussed in Part IV.

In 1976 the Minnesota Legislature recognized the need to provide financial assistance not available from conventional sources to low income homeowners for the purpose of maintaining their homes in safe livable condition. Their response was to authorize the Home Improvement Grant Program, which was succeeded by the Rehabilitation Loan Programs in 1981.

A. Income limits in 1976 were set at \$5,000. By 1981, they were increased to \$6,000. In the years since, the limits for Deferred Loans have increased to \$8,500. In the early years of the program, assistance was provided predominantly to homeowners whose source of income was Social Security or AFDC. Income limits have increased minimally compared to the rate of inflation over the past 17 years. Since 1976, the Consumer Price Index (CPI) for Minneapolis-St. Paul urban consumers increased 164 % while the Deferred Loan income limit increased by only 70%. Need, in terms of the increased gap between income limits and the cost of living that occurred between 1976 and 1993, has increased substantially. An increase in income limits is necessary for the program to continue to serve the population it served several years ago, as defined in inflation-adjusted dollars.

Social Security benefits have increased reducing some of the need in that portion of the population. There is still need for homeowners whose sole income is AFDC, but the fastest growing need in recent years is among the "working poor."

There are many households with incomes over the \$15,000 and \$12,000 Revolving Loan income limits who are unable to obtain conventional financing or other assistance to maintain their homes because of an inability to afford conventional interest rates or to meet underwriting standards. When Accessibility improvements are necessary, households with incomes much higher than the \$15,000 and \$12,000 limits need financial assistance in the form of a deferred loan to make their homes accessible. The nature of accessibility improvements is such that they often do not add value to the property, making them a more risky investment for conventional home improvement lenders, or even public-sector lenders who rely on the value of the property as security for their loans.

B. When Revolving Loans were started in 1988, the income limits were set at \$15,000 in the seven county Twin Cities metropolitan area. The following year Accessibility income limits which had been the same as Deferred were increased to the Revolving limits. Increases in the cost of living without increases in the income limits have essentially redefined the class of eligible borrowers to a lower-income group. An increase in the income limits is necessary to serve the same type of borrower as was served when the current income standards were established.

C. The seven county metro area has, according to MSA standards, expanded to an eleven county metro area. It is necessary to expand the definition of the metropolitan area for income limit purposes to remain consistent with the official federal definition of the Twin Cities Metropolitan Area. Also Administrators in these counties report that incomes and purchasing ability are similar to the Metro Area rather than greater Minnesota.

IV. Statement of Reasonableness

The Agency is required by Minnesota Statutes Chapter 14 (1992) to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness and capriciousness. It means there is a rational basis for the Agency's proposed action. The reasonableness of the proposed rule amendment is discussed below.

A. Reasonableness of increasing income limits. The scarce sources of funds for the programs in and of themselves limit the number of households that receive assistance. To assist every household that needs assistance would take many times the amount of money available and would require much higher income limits, closer to HUD's 50% of median income. Since funds are scarce, this is not practical. An income limit of \$10,000 for Deferred Loan borrowers will bring the program in closer alignment with income limits of similar federal programs and in so doing will provide assistance to more very low income households who are struggling on incomes from low paying jobs to maintain their homes.

B. Local delivery agencies report that previous limits were so low that many eligible households simply could not afford to make a payment and that the higher limits would be much more workable. The increase in the Revolving and Accessibility limits is reasonable because it approximates the increase in the CPI from 1988 to 1992, and will ensure that a similar class of people will qualify for the loans as did in 1988.

C. Increasing the seven county Twin Cities metro area to the MSA designated eleven county metro is reasonable considering the higher median incomes in the expanded Twin Cities area.

V. Small Business Considerations in Rulemaking

The Agency is cognizant of the provisions of Minnesota Statutes 14.115 (1992) which requires a state agency to consider methods for reducing the negative impact on small businesses of its proposed rules or amendments to its rules. The proposed rules do not establish any compliance or reporting requirements, design or operational

standards, or directly affect the required operation of any small businesses. Therefore, the provisions contained in Minnesota Statute 14.115 (1992) do not apply to the proposed rules.

VI. Fiscal Note

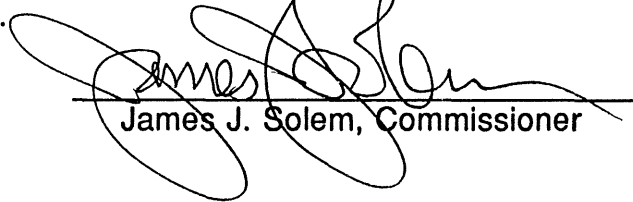
The Agency is cognizant of the provisions of Minnesota Statutes 14.11, subdivision 1 (1992) which requires a state agency, when proposing rules or amendments to rules, to determine if the rules will require expenditures of public monies by local public bodies to implement the rule. If the expenditures are estimated to exceed \$100,000 in either of the two years immediately after the adoption of the rule, the Agency's notice must contain a written statement giving a reasonable estimate of the total cost.

There is no requirement for the expenditure of public monies by local public bodies to implement the proposed rules. Any expenditure of public monies by public bodies with regard to the proposed rules is voluntary. Therefore, the provisions contained in Minnesota Statutes 14.11, subdivision 1 (1992) do not apply to the proposed rules.

VII. Conclusion

Based on the foregoing, the proposed amendment to Minnesota Rules part 4900.010, Subpart 23(D) is needed and reasonable.

Dated: 6-3-93


James J. Solem, Commissioner