



Minnesota Housing Finance Agency

April 7, 1994

Ms. Maryanne Hruby, Director
Legislative Commission to Review Administrative Rules
55 State Office Bldg.
100 Constitution Ave.
St. Paul, MN 55155

Dear Ms. Hruby:

I have enclosed a copy of the Statement of Need and Reasonableness on the proposed rules relating to Purchase and Rehabilitation or Refinance and Rehabilitation Mortgage Loans for your files.

If you have any questions call me at 296-9793.

Sincerely,

Judie VanDerBosch
Legal Assistant

JV
Enc.

March 23, 1994

STATE OF MINNESOTA
HOUSING FINANCE AGENCY

STATEMENT OF NEED AND REASONABLENESS

In the Matter of the Proposed Rules Relating to
Purchase and Rehabilitation or Refinance and Rehabilitation Mortgage Loans

I. INTRODUCTION

The Minnesota Housing Finance Agency (Agency) proposes to amend rules governing the Purchase and Rehabilitation or Refinance and Rehabilitation mortgage loans. Through such mortgage loans, borrower may raise the funds to either purchase and rehabilitate or refinance and rehabilitate existing housing with a single mortgage. Under such a program, the Agency will make, process and/or purchase market rate mortgage loans secured by properties that have been purchased or refinanced and rehabilitated.

The Agency has prepared this Statement of Need and Reasonableness (SNR) to explain its amendments to existing rules governing such activities 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 rules. Part IV describes the reasonableness of the proposed rules. Parts V and VI address the small business consideration and the fiscal note requirements of Chapter 14, respectively. Part VII consists of required dates and signatures. A fee requirements 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 various representatives of lending institutions, lending trade associations, the Federal Housing Administration, the Federal National Mortgage Association, and nonprofit housing providers. The Agency drafted these proposed rules based on these discussions as well as the statutory requirements of the Program and its funding source. The Agency board of directors has also reviewed and approved the Program concept and proposed rules.

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 11 (1992).

The Agency's authority to implement this Program is set forth in Minnesota Statutes Section 462A.05, subdivision 14 which provides that the Agency may agree to purchase, make, or otherwise participate in the making and may enter into commitments for the purchase, making, or participation in the making of eligible loans to persons and families of low and moderate income, for the rehabilitation of existing residential housing owned by them. Among other things, the statute also provides that such eligible loans may also refinance indebtedness secured by property if the refinancing is determined by the Agency to be necessary to permit the owner to meet the owner's housing costs without expending an unreasonable portion of the owner's income thereon.

This Program is financed with market rate capital raised from a variety of sources. In all circumstances, these sources will provide that the mortgages are insured by a government or private mortgage insuring entity which may impose requirements pertaining to the insurance of such mortgage loans. Furthermore, the entity providing the market rate capital may impose certain requirements pertaining to the mortgage loans originated, particularly if the source of such capital is a secondary mortgage market conduit such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

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.

As general background information, these rules were originally promulgated in 1989 pursuant to the activities of the Governor's Commission on Affordable Housing in the 1990s. This Commission recommended that the Agency develop and implement a mortgage loan program as

described above. It was noted by the Commission that a program of this nature would aid in preservation of the existing housing stock and that no comparable product was available from private lenders on equivalent terms and conditions. The finding of this Commission was confirmed pursuant to meeting with numerous housing professionals throughout the state. As a result, this program was developed under statutory authority that was already existing at that time.

The Agency developed and implemented a purchase and rehabilitation and refinance and rehabilitation program pursuant to administrative rules promulgated at that time. This program was implemented on a test basis through select mortgage lenders. Based upon that experience and additional input from housing professionals, the proposed amended rules are provided.

Specifically, the proposed amended rules cover two parts of the existing administrative rule: Minnesota Rules 4900.2005, subpart 2 and Minnesota Rules 4900.2005, subpart 6. Under Minnesota rules 4900.2005, subpart 2 the Agency establishes a minimum rehabilitation requirement based upon the location of the property in Minnesota. Given that the administrative rules have been promulgated for purchase and rehabilitation or refinance and rehabilitation mortgage loans, it follows logically that a minimum amount of rehabilitation must be accomplished. Subpart 2 establishes such minimum rehabilitation amounts with recognition of varying real estate markets throughout the state.

Minnesota Rules 4900.2005, subpart 6 amends the administrative rules pertaining to the maximum mortgage amount. To meet the statutory mission of the Agency, it was determined that it is necessary to establish a maximum mortgage amount that is high enough to provide encouragement for the activity being suggested but is low enough to focus Agency business activities in accordance with the Agency's mission of providing Minnesotans with decent affordable housing and strong communities.

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 or capriciousness. It means that there is a rational basis for the Agency's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole.

To determine the need for and adequacy of rules for the Program, the Agency met with a variety of housing professionals including lending institutions, nonprofit groups, government agencies,

national secondary mortgage market conduits, and mortgage insuring and guaranteeing entities. The primary purpose of these meetings was to discuss program parameters as a whole as opposed to specifically addressing administrative rules. However, comments made by various parties had an impact on the rules currently in existence for this program and, as a result, proposed amendments are being promulgated.

The Agency determined that the proposed rules are necessary to ensure program uniformity, to avoid arbitrary and capricious decisions and to establish uniform requirements and procedures for the program.

The Agency considered concerns of all parties and believes their concerns are adequately addressed and reasonably accommodated in the proposed rules. The reasonableness of each proposed rule is discussed below.

B. Reasonableness of Individual Rules

The following discussion addresses the specific provisions of the proposed rules.

Minnesota Rules 4900.2005, subpart 2 establishes the minimum rehabilitation requirement for each property financed with the purchase and rehabilitation mortgage loan or a refinance and rehabilitation mortgage loan. Minimum rehabilitation requirements are established based upon areas of the state to be served by this program. Under the proposed and amended rule, a minimum rehabilitation amount of \$5,000 is established for a 15 county area that comprises the Twin Cities, Rochester, St. Cloud, and Moorhead metropolitan statistical areas. These areas are generally recognized to have significantly higher home purchase prices and/or real estate values than other areas of the state, and both federal data and regulations pertaining to mortgage finance and other real estate programs typically reflect this difference. Furthermore, certificates of real estate value filed with the State Department of Revenue show higher home purchase prices and/or real estate values in such areas. The \$5,000 minimum rehabilitation amount was specified for these areas as this is the minimum rehabilitation amount established in the Federal Housing Administration 203(k) mortgage insurance program, which has been specifically designed to provide mortgage insurance on purchase and rehabilitation or refinance and rehabilitation mortgage loans and is anticipated to be the primary mortgage insuring source for this program.

For other counties in the State of Minnesota, the rules propose that the minimum rehabilitation amount shall be the lesser of \$5,000 or 15% of the value of the property prior to rehabilitation. This requirement has been established to reflect the generally lower home purchase prices and/or real estate values in other communities in Minnesota. In many of these communities, a minimum rehabilitation requirement of 15% of the purchase price represents a substantial and reasonable

percentage of the overall value of the property. In light of this, the local office of the Federal Housing Administration has received a waiver of the \$5,000 minimum rehabilitation requirement for these counties to make such activity more available in smaller communities. Thus, the rule is established to reflect this.

Minnesota Rules 4900.2005, subpart 6 provides the maximum mortgage amount under the program. Under the proposed and amended rule, the maximum mortgage amount for the program is established as the maximum for the Minneapolis/St. Paul metropolitan statistical area for mortgage loans to be insured by the Federal Housing Administration as determined and adjusted from time-to-time by the United States Department of Housing and Urban Development. This is being proposed as the mortgage limit to provide greater flexibility for conventional mortgage loans (as opposed to FHA insured mortgage loans) in Greater Minnesota communities. It has been noted that the FHA maximum mortgage amount outside the Twin Cities metropolitan area is often too low to support general FHA mortgage activity, much less purchase and rehabilitation mortgage activity. As a result, this rule establishes one statewide limit that is both adequate to provide reasonable financing activities throughout the state and is simple for program participants to administer.

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 Statutes 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.

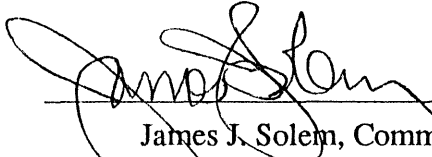
There is no requirement for the expenditure of public monies by local public bodies to implement the proposed rules. Any expenditure of public monies by public bodies with regard to the

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 amendments to Minnesota Rules parts 4900.2005, subparts 2 and 6 are needed and reasonable.

Dated: April 5, 1994



James J. Solem, Commissioner
Minnesota Housing Finance Agency

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption
of the Rule of the Minnesota Housing
Finance Agency Governing the
Purchase and Rehabilitation or Refinance and
Rehabilitation Mortgage Loans

NOTICE OF INTENT TO ADOPT
A RULE WITHOUT A
PUBLIC HEARING

The Minnesota Housing Finance Agency intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedures Act, Minnesota Statutes, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Judie VanDerBosch
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998
(612) 296-9793

Subject of Rule and Statutory Authority. The proposed rule is about Purchase and Rehabilitation or Refinance and Rehabilitation Mortgage Loans. The statutory authority to adopt this rule is Minnesota Statutes 462A.06, subd. 4 and 11. A copy of the proposed rule is published in the State Register and attached to this notice as mailed. You have until 4:30 PM, May 11, 1994 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

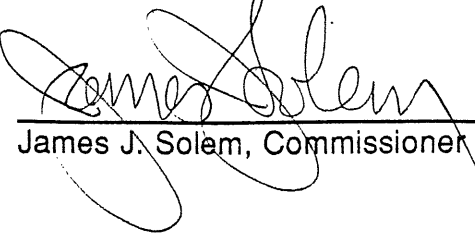
Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 PM, on May 11, 1994. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in Minnesota Statutes, sections 14.131 to 14.20.

Modifications. The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule as attached and printed in the State Register. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

Adoption and Review of Rule. If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: April 5, 1994



James J. Solem, Commissioner

1 Minnesota Housing Finance Agency
2
3 Proposed Permanent Rules Relating to Purchase and Rehabilitation
4 or Refinance and Rehabilitation Mortgage Loans
5
6 Rules as Proposed

7 4900.2005 PURCHASE AND REHABILITATION OR REFINANCE AND
8 REHABILITATION MORTGAGE LOANS.

9 [For text of subpart 1, see M.R.]


10 Subp. 2. Minimum rehabilitation. Each property financed
11 with a purchase and rehabilitation mortgage loan or a refinance
12 and rehabilitation loan must require and receive rehabilitation
13 in a dollar amount greater than or equal to the amounts in items
14 A and B.

15 A. For-properties If the property to be financed is
16 located within in Anoka, Benton, Carver, Chisago, Clay, Dakota,
17 Hennepin, Isanti, Olmsted, Ramsey, Scott, Sherburne, Stearns,
18 Washington, and or Wright counties county, the
19 minimum required rehabilitation requirement is \$5,000.

20 B. For properties located within in all other
21 counties, the minimum rehabilitation requirement is the lesser
22 of \$5,000 or 15 percent of the value of the property prior-to
23 before rehabilitation.

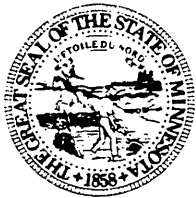
24 [For text of subps 3 and 5, see M.R.]

25 Subp. 6. Maximum mortgage amount. The maximum mortgage
26 amount for any purchase and rehabilitation or refinance and
27 rehabilitation mortgage loan must not exceed the maximum
28 mortgage amount for ~~applicable-areas-of-the-state~~ the
29 Minneapolis/St. Paul Metropolitan Statistical Area for mortgage
30 loans to be insured by the Federal Housing Administration as
31 determined and adjusted from time to time by the United States
32 Department of Housing and Urban Development.



Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Relating to Purchase and Rehabilitation or Refinance and Rehabilitation Mortgage Loans

AGENCY: Minnesota Housing Finance Agency

MINNESOTA RULES: Chapter 4900

The attached rules are approved for
publication in the State Register

A handwritten signature in cursive script, appearing to read "Richard J. Sands", written over a horizontal line.

Richard J. Sands
Senior Assistant Revisor