

Signed by the governor May 3, 1990, 5:30 p.m.

**CHAPTER 552—H.F.No. 2457**

*An act relating to public financing; allocating low income housing credits; allocating authority to issue tax exempt revenue bonds; regulating use of bond proceeds; restricting loans from proceeds of mortgage revenue bonds under certain circumstances; amending Minnesota Statutes 1988, sections 462A.222, subdivision 3; 474A.02, subdivisions 6, 8, and by adding a subdivision; 474A.03; 474A.061, subdivision 3, and by adding subdivisions; 474A.091, subdivisions 1, 4, and 5; 474A.131, subdivision 2; and 474A.14; Minnesota Statutes Second 1989 Supplement, sections 474A.061, subdivisions 1 and 4; and 474A.091, subdivisions 2 and 3; proposing coding for new law in Minnesota Statutes, chapter 474A; repealing Minnesota Statutes 1988, sections 474A.081, subdivisions 1, 2, and 4; and 474A.091, subdivision 4a; Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

Section 1. Minnesota Statutes 1988, section 462A.222, subdivision 3, as amended by Laws 1990, chapter 368, section 6, is amended to read:

**Subd. 3. ALLOCATION PROCEDURE.** (a) Projects will be awarded tax credits in three competitive rounds on an annual basis. The date for applications for each round must be determined by the agency. No allocating agency may award tax credits prior to the application dates established by the agency.

(b) Each allocating agency must meet the requirements of section 42(m) of the Internal Revenue Code of 1986, as amended through December 31, 1989, for the allocation of tax credits and the selection of projects.

(c) ~~In~~ For applications submitted for the first round, an allocating agency may allocate tax credits only to the following types of projects:

(1) single-room occupancy projects which are affordable by households whose income does not exceed 30 percent of the median income;

(2) family housing projects in which at least 75 percent of the units contain two or more bedrooms and at least ~~25~~ one-third of the 75 percent contain three or more bedrooms;

(3) projects in which at least 50 percent of the units are for mentally ill, mentally retarded, drug dependent, developmentally disabled, or physically handicapped persons;

(4) projects which preserve existing subsidized housing which is subject to prepayment if the use of tax credits is necessary to prevent conversion to market rate use; or

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(5) projects financed by the Farmers Home Administration which meet statewide distribution goals.

(d) Before the date for applications for the second round, the allocating agencies other than the agency shall return all uncommitted and unallocated tax credits to the pool from which they were allocated, along with copies of any allocation or commitment. In the second round, the agency shall allocate the remaining credits from the regional pools to projects from the respective regions.

(e) In the third round, all unallocated tax credits must be transferred to a unified pool for allocation by the agency on a statewide basis.

(f) Unused portions of the state ceiling for low-income housing tax credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation.

Sec. 2. Minnesota Statutes 1988, section 474A.02, subdivision 6, is amended to read:

Subd. 6. **DEPARTMENT; DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT FINANCE.** "Department" means the department of ~~trade and economic development~~ finance.

Sec. 3. Minnesota Statutes 1988, section 474A.02, subdivision 8, is amended to read:

Subd. 8. **FEDERAL TAX LAW.** "Federal tax law" means those provisions of the Internal Revenue Code of 1986, as amended through December 31, 1989, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is excluded from gross income for purposes of federal income taxation.

Sec. 4. Minnesota Statutes 1988, section 474A.02, is amended by adding a subdivision to read:

Subd. 22b. PUBLIC FACILITIES PROJECT. "Public facilities project" means any publicly owned facility that is eligible to be financed with the proceeds of public facilities bonds as defined under section 474A.02, subdivision 23a.

Sec. 5. Minnesota Statutes 1988, section 474A.03, is amended to read:

**474A.03 DETERMINATION OF ANNUAL VOLUME CAP.**

Subdivision 1. **ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.** At the beginning of each calendar year after December 31, ~~1987~~ 1990, the commissioner shall determine the aggregate dollar amount of the annual volume cap under federal tax law for the calendar year, and of this amount the commissioner shall make the following allocation:

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- (1) ~~\$74,000,000~~ \$75,000,000 to the manufacturing pool;
- (2) ~~\$30,000,000~~ \$46,000,000 to the ~~multifamily~~ housing pool;
- (3) ~~\$21,000,000~~ \$10,000,000 to the public facilities pool; and
- (4) amounts to be allocated as provided in subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4) and subdivision 2a, paragraph (a), clauses (1) to (3), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Subd. 2a. **ENTITLEMENT ISSUER ALLOCATION.** (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

- (1) ~~\$50,000,000~~ \$51,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 474A.091, subdivision 6;
- (2) ~~\$20,000,000~~ per year to the city of Minneapolis; and
- (3) ~~\$15,000,000~~ per year to the city of Saint Paul; and
- (4) ~~\$3,000,000~~ to each of the cities of the first class located outside of the metropolitan area as defined in section 473.121, subdivision 2, or an amount equal to the amount of mortgage bonds or residential rental project bonds that each city permanently issued in the previous calendar year, whichever amount is less. If a city is eligible to receive an entitlement allocation under this clause, the amount of the allocation is deducted from the allocations made under clauses (1), (2), and (3) in proportion to the total amount of allocations made in clauses (1), (2), and (3).

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

#### Sec. 6. [474A.045] SCORING SYSTEM FOR MANUFACTURING PROJECTS.

The following criteria must be used in determining the allocation of small issue bonds for manufacturing projects. The issuer must prepare and submit to the commissioner a public purpose scoring worksheet that presents the data and methods used in determining the total score under this section. The total score is the sum of the following:

- (1) the number of net direct new jobs in the state generated by the proposed

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project for the next two years per \$100,000 of proposed allocation multiplied by 15;

(2) the number of direct jobs retained in the state due to the proposed project per \$100,000 of proposed allocation multiplied by 15;

(3) the quotient of the total increase in net payroll generated in the state by the proposed project divided by the proposed bond allocation, multiplied by 100;

(4) the quotient of the estimated total net increase in property taxes generated in the state by the project in the first full year of operation divided by the proposed bond allocation, multiplied by 500; and

(5) the unemployment rate in the community where the proposed project is located measured as a percent of the state's unemployment rate, multiplied by ten.

The community unemployment rate used in determining the points under clause (5) must be the rate for the county in which the proposed project is located unless an accurate rate may be estimated for a smaller geographic area or census tract. The commissioner of jobs and training must approve the rate used when an unemployment rate other than that for a county is used.

If the manufacturing project will retain jobs and the total score includes points calculated under clause (2), the issuer must certify to the commissioner that the proceeds of the small issue bonds are required to retain those jobs. The commissioner shall submit the information relating to the retaining of jobs to the commissioner of trade and economic development. The commissioner of trade and economic development must verify that the proceeds of the small issue bonds are required to retain the jobs referred to in the certification prior to the awarding of any points under this section.

#### Sec. 7. [474A.047] RESIDENTIAL RENTAL BONDS; LIMITATIONS.

Subdivision 1. ELIGIBILITY. An issuer may only use the proceeds from residential rental bonds if the proposed project meets one of the following:

(a) The proposed project is a single room occupancy project and all the units of the project will be occupied by individuals whose incomes at the time of their initial residency in the project are 50 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development; or

(b) The proposed project is a multifamily project where at least 75 percent of the units have two or more bedrooms and at least one-third of the 75 percent have three or more bedrooms. At least 75 percent of the units of the multifamily project must be occupied by individuals or families whose incomes at the time of their initial residency in the project are 60 percent or less of the greater of the statewide or county median income adjusted for household size as determined by the federal Department of Housing and Urban Development.

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The maximum rent for a proposed single room occupancy unit under paragraph (a) is 30 percent of the amount equal to 30 percent of the greater of the statewide or county median income for a one-member household as determined by the federal Department of Housing and Urban Development. The maximum rent for a multifamily project under paragraph (b) is 30 percent of the amount equal to 50 percent of the greater of the statewide or county median income as determined by the federal Department of Housing and Urban Development based on a household size with one person per bedroom.

Subd. 2. 15-YEAR AGREEMENT. Prior to the issuance of residential rental bonds, the developer of the project for which the bond proceeds will be used must enter into a 15-year agreement with the issuer that specifies the maximum rental rates of the units in the project and the income levels of the residents of the project. The rental rates and income levels must be within the limitations established under subdivision 1. The developer must annually certify to the issuer over the term of the agreement that the rental rates are within the limitations under subdivision 1. The issuer may request individual certification of the income of all residents of the project. The commissioner may request from the issuer a copy of the annual certification prepared by the developer. The commissioner may require the issuer to request individual certification of all residents of the project.

Subd. 3. PENALTY. If a project is found out of compliance with the rental rate or income level requirements under subdivision 1, the owner or owners of the project shall pay a penalty to the commissioner equal to one-half of one percent of the total amount of bonds issued for the project under this chapter. For each additional year a project is out of compliance, the annual penalty must be increased by one-half of one percent of the total amount of bonds issued under this chapter for the project. The commissioner shall deposit any penalties collected under this subdivision in the housing trust fund account established under section 462A.201.

**Sec. 8. [474A.048] SINGLE FAMILY MORTGAGE BONDS; LIMITATIONS.**

Subdivision 1. DEFINITIONS. (a) For purposes of this section the following terms have the meaning given them.

(b) "City" means a city as defined in section 462C.02, subdivision 6.

(c) "Existing housing" means single family housing that (i) has been previously occupied prior to the first day of the origination period; or (ii) has been available for occupancy for at least 12 months but has not been previously occupied.

(d) "Metropolitan area" means the Minneapolis-St. Paul metropolitan statistical area as defined by the United States Department of Commerce's Bureau of the Census.

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(e) "New housing" means single family housing that has not been previously occupied.

(f) "Origination period" means the period that loans financed with the proceeds of qualified mortgage revenue bonds are available for the purchase of single family housing. The origination period begins when financing actually becomes available to the borrowers for loans.

(g) "Redevelopment area" means a compact and contiguous area within which the city finds by resolution that 70 percent of the parcels in the area are occupied by buildings, streets, utilities, or other improvements and more than 25 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance.

(h) "Single family housing" means dwelling units eligible to be financed from the proceeds of qualified mortgage revenue bonds under federal law.

(i) "Structurally substandard" means containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light, ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

**Subd. 2. LIMITATION; ORIGINATION PERIOD.** During the first ten months of an origination period, the Minnesota housing finance agency or a city may make loans financed with proceeds of mortgage bonds for the purchase of existing housing. Loans financed with the proceeds of mortgage bonds for new housing in the metropolitan area may be made during the first ten months of an origination period only if at least one of the following conditions is met:

(1) the new housing is located in a redevelopment area and is replacing a structurally substandard structure or structures;

(2) the new housing is located on a parcel purchased by the city or conveyed to the city under section 282.01, subdivision 1; or

(3) the new housing is part of a housing affordability initiative, other than those financed with the proceeds from the sale of bonds, in which federal, state, or local assistance is used to substantially improve the terms of the financing or to substantially write down the purchase price of the new housing.

Upon expiration of the first ten-month period, the agency or a city may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

**Subd. 3. NONMETROPOLITAN AREA.** The Minnesota housing finance agency and cities shall initiate steps in the nonmetropolitan areas of the state similar to those required for the metropolitan area under subdivision 2 to encourage loans for existing housing or for new housing under the conditions specified in subdivision 2.

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**Subd. 4. REDEVELOPMENT AREA.** A city must submit to the Minnesota housing finance agency the resolution adopted by the governing body of the city finding an area to be a redevelopment area and a map of the redevelopment area.

**Subd. 5. LIMITATION; COMMITMENTS AND LOANS TO BUILDERS AND DEVELOPERS.** The Minnesota housing finance agency or a city may not make available, provide set asides, or commit to make available proceeds of mortgage bonds for the exclusive use of builders or developers for loans to eligible purchasers for new housing except for new housing described in subdivision 2, clauses (1) to (3). This prohibition is in effect for the total origination period.

**Subd. 6. REPORTING REQUIREMENT.** The Minnesota housing finance agency and any city that provides loans for new housing financed with the proceeds of mortgage bonds shall report to the chairs of the appropriate housing related standing committees or divisions of the state senate and house of representatives by January 1 of each year detailing new housing activity financed with the proceeds of mortgage bonds, including a description of affordable housing initiatives, the number of loans, the average purchase price, average borrower income, and steps taken to encourage loan activity as required in subdivision 3.

Sec. 9. Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August, and (5) a public purpose scoring worksheet for small issue applications. An issuer applying for an allocation from the multifamily housing pool who does not sign an agreement requiring that the project comply with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988, must submit an additional application deposit in the amount of two percent of the requested allocation before the last Monday in August, or in the amount of one percent of the requested allocation on or after the last Monday in August. The issuer must pay the application deposit by check. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the ~~multifamily~~ housing pool or from the public facilities pool unless it has either

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permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 10. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

Subd. 2a. HOUSING POOL ALLOCATION. (a) On the first business day that falls on a Monday of the calendar year and on the first Monday in April, the commissioner shall allocate available bonding authority in the housing pool to applications received by the Monday of the previous week for residential rental projects that meet the eligibility criteria under section 7. After April 1, and until April 15, the Minnesota housing finance agency may accept applications from cities for single-family housing programs which meet program requirements as follows:

(1) the housing program must meet a locally identified housing need and be economically viable;

(2) the adjusted income of home buyers cannot exceed the agency's income limits, except in the Minneapolis-St. Paul metropolitan statistical area as determined by the United States Department of Commerce where the adjusted income limits of home buyers may not exceed the greater of the agency's income limits or 80 percent of the area median income as published by the Department of Housing and Urban Development;

(3) house price limits may not exceed the greater of agency house price limits or 90 percent of the median purchase price in the city for which the bonds are to be sold up to a maximum of 80 percent of the safe harbor limitations for existing housing provided under section 143(e) of the Internal Revenue Code of 1986, as amended through December 31, 1989, except that house price limits may be 80 percent of the safe harbor limitation for existing housing if subsidy is used to reduce the effective purchase price of the property to the above levels. Data establishing the median purchase price in the city must be included in the application by a city requesting house price limits higher than the housing finance agency's house price limits;

(4) the housing program meets the requirements of section 8; and

(5) an application deposit equal to one percent of the requested allocation must be submitted with the city's application. The agency shall submit the application and application deposit to the commissioner when requesting an allocation from the housing pool.

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The Minnesota housing finance agency may accept applications from July 1 to July 15 from cities for single-family housing programs which meet program requirements specified under clauses (1) to (5) if bonding authority is available in the housing pool. The agency and a representative for each applicant shall negotiate the terms of an agreement regarding the allocation of available authority among the applicants. The agreement must allot available bonding authority among the applicants. For purposes of paragraphs (a) to (d), "city" has the meaning given it in section 462C.02, subdivision 6, and "agency" means the Minnesota housing finance agency.

(b) Upon reaching agreement with participating cities, the agency shall forward to the commissioner the amounts allotted to each applicant pursuant to the agreement. The agency may issue bonds on behalf of participating cities. The agency shall request an allocation from the commissioner for all applicants who choose to have the agency issue bonds on their behalf and the commissioner shall allocate the requested amount to the agency. The agency may request an allocation at any time between the first Tuesday after the first Monday in April and the last Monday in August, but may request an allocation no later than the last Monday in August. The commissioner shall return any application deposit to a city that paid an application deposit under paragraph (a), clause (5), but was not part of the agreement forwarded to the commissioner under this paragraph.

(c) A city may choose to issue bonds on its own behalf or through a joint powers agreement and may request an allocation from the commissioner. If the total amount requested by all applicants exceeds the amount available in the pool, the city may not receive a greater allocation than the amount it would have received under the agreement forwarded by the Minnesota housing finance agency to the commissioner. No city may request or receive an allocation from the commissioner until the agreement under paragraph (b) has been forwarded to the commissioner. Between the first Monday in April and the last Monday in August, no city may receive an allocation from the housing pool which has not first applied to the Minnesota housing finance agency. The commissioner shall allocate the requested amount to the city or cities subject to the limitations under this paragraph.

(d) If a city issues mortgage bonds from an allocation received under paragraph (c), the issuer must provide for the recycling of funds into new loans. If the issuer is not able to provide for recycling, the issuer must notify the commissioner in writing of the reason that recycling was not possible and the reason the issuer elected not to have the Minnesota housing finance agency issue the bonds. "Recycling" means the use of money generated from the repayment and prepayment of loans for further eligible loans or for the redemption of bonds and the issuance of current refunding bonds.

(e) The total amount of allocation for mortgage bonds for one city is limited to the lesser of (i) \$4,000,000 or (ii) 20 percent of the total amount available for allocation for mortgage bonds from the housing pool after the first Monday in April.

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Sec. 11. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

**Subd. 2b. MANUFACTURING POOL ALLOCATION.** From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the manufacturing pool on Monday of each week to applications received on or before the Monday of the preceding week. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 6. Proposed projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed projects that receive less than 50 points are eligible to receive a proportionally reduced share of the proposed authority.

If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 12. Minnesota Statutes 1988, section 474A.061, is amended by adding a subdivision to read:

**Subd. 2c. PUBLIC FACILITIES POOL ALLOCATION.** From the beginning of the calendar year until the last Monday in August, the commissioner shall allocate available bonding authority from the public facilities pool on Monday of each week to applications for eligible public facilities projects received on or before the Monday of the preceding week. If there are two or more applications for public facilities projects from the pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 474A.081, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 13. Minnesota Statutes 1988, section 474A.061, subdivision 3, is amended to read:

**Subd. 3. ADDITIONAL DEPOSIT.** An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Monday Tuesday in September only if the issuer has submitted to the department before the first Monday Tuesday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained. The Minnesota housing finance agency may retain an unused portion of an allocation after the first Tuesday in September without submitting an additional deposit.

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Sec. 14. Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 4, is amended to read:

Subd. 4. **RETURN OF ALLOCATION; DEPOSIT REFUND.** (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year within 90 days of allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned ~~must be reallocated~~ for reallocation through the pool from which it was originally allocated. If the issuer notifies the department or the 90-day period since allocation has expired on or after the last Monday in August, the amount of allocation is canceled and returned ~~must be reallocated~~ for reallocation through the unified pool. If the issuer notifies the department after the last Monday in November, the amount of allocation is canceled and returned ~~must be reallocated~~ for reallocation to the Minnesota housing finance agency.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of allocation shall receive within 30 days a refund ~~of all of its application deposits~~ equal to:

(1) one-half of the ~~amount on~~ application deposit for the amount of bonding authority returned ~~before the first Monday in November~~ within 30 days of receiving allocation;

(2) one-fourth of the ~~amount on~~ application deposit for the amount of bonding authority returned ~~on or after the first Monday in November and before the third Monday in November~~ between 31 and 60 days of receiving allocation; and

(3) one-eighth of the ~~amount on~~ application deposit for the amount of bonding authority returned ~~on or after the third Monday in November and before the last Monday in November~~ between 61 and 90 days of receiving allocation.

No refund shall be available for allocations returned ~~on or after the last Monday in November~~ 90 or more days after receiving the allocation. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 15. Minnesota Statutes 1988, section 474A.091, subdivision 1, is amended to read:

Subdivision 1. **UNIFIED POOL AMOUNT.** On the day after the last Monday in August any bonding authority remaining unallocated from the manufacturing pool, the ~~multifamily~~ housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

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Sec. 16. Minnesota Statutes Second 1989 Supplement, section 474A.091, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation, and (5) a public purpose scoring worksheet for small issue applications. ~~An issuer applying for an allocation for residential rental project bonds who does not sign an agreement requiring that the project comply with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1988, must submit an additional application deposit in the amount of one percent of the requested allocation.~~ The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in September. Notwithstanding the restrictions imposed on unified pool allocations after October 1 under subdivision 3, paragraph (c)(2), the Minnesota housing finance agency may be awarded allocations for mortgage bonds from the unified pool after October 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Sec. 17. Minnesota Statutes Second 1989 Supplement, section 474A.091, subdivision 3, is amended to read:

Subd. 3. **ALLOCATION PROCEDURE.** (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in September through and on the last Monday in November. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day after the holiday.

(b) On or before October 1, allocations shall be awarded from the unified pool in the following order of priority:

(1) applications for small issue bonds; ~~with preference given to projects to be located in distressed counties designated under section 297A.257;~~

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(2) applications for residential rental project bonds; ~~with preference given to issuers agreeing to require that the project comply with the gross rent restrictions of the low-income housing credit program under section 42 of the Internal Revenue Code of 1986; as amended through December 31, 1988;~~

(3) applications for public facility projects funded by public facility bonds;

(4) applications for redevelopment bonds;

(5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in September. The amount of allocation provided to an issuer for a specific manufacturing project will be based on the number of points received for the proposed project under the scoring system under section 6. Proposed manufacturing projects that receive 50 points or more are eligible for all of the proposed allocation. Proposed manufacturing projects that receive less than 50 points under section 6 are only eligible to receive a proportionally reduced share of the proposed authority. If there are two or more applications for manufacturing projects from the unified pool and there is insufficient bonding authority to provide allocations for all manufacturing projects in any one allocation period, the available bonding authority shall be awarded based on the number of points awarded a project under section 6 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in October, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the manufacturing pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the manufacturing pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in October, ~~\$5,000,000~~ \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, ~~three-fourths~~ seven-eighths of the remaining available bonding authority is reserved for small issue bonds and ~~one-fourth~~ one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) The total amount of allocations for mortgage bonds from the housing pool and the unified pool may not exceed:

(i) \$10,000,000 for any one city; or

(ii) \$20,000,000 for any number of cities in any one county; ~~or~~

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(iii) 60 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After October 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, ~~with preference given to manufacturing projects to be located in distressed counties designated under section 297A.257;~~ public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Sec. 18. Minnesota Statutes 1988, section 474A.091, subdivision 4, is amended to read:

Subd. 4. **MORTGAGE BOND SUNSET BONDS.** If federal tax law is not amended to permit the issuance of tax-exempt mortgage bonds after December 31, 1988, All remaining bonding authority available for allocation under this section on December 1, 1988, is allocated to the Minnesota housing finance agency. For purposes of this subdivision, "city" has the meaning given it in section 462C.02, subdivision 6. The Minnesota housing finance agency shall reallocate at least 50 percent of the remaining bonding authority available for allocation to cities requesting an allocation on or before November 1, 1988, for the issuance of mortgage bonds. A city may apply for an allocation under this subdivision by submitting to the Minnesota housing finance agency an application on or before November 1, 1988, on forms provided by the agency. After December 1, 1988, any unallocated bonding authority remaining after all city requests are filled is reallocated to the Minnesota housing finance agency for issuance by the agency or for reallocation to a city requesting an allocation on or before November 1, 1988.

Sec. 19. Minnesota Statutes 1988, section 474A.091, subdivision 5, is amended to read:

Subd. 5. **RETURN OF ALLOCATION; DEPOSIT REFUND.** (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in November, the amount of allocation is canceled and returned must be reallocated for reallocation through the unified pool.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund of its ~~application deposit~~ equal to:

(1) one-half of the ~~amount on application~~ deposit for the amount of bonding authority returned ~~before the first Monday in November~~ within 30 days of receiving the allocation;

(2) one-fourth of the ~~amount on application~~ deposit for the amount of bonding authority returned ~~on or after the first Monday in November and before the third Monday in November~~ between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the ~~amount on application~~ deposit for the amount of bonding authority returned ~~on or after the third Monday in November and before the last Monday in November~~ between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 20. Minnesota Statutes 1988, section 474A.131, subdivision 2, is amended to read:

Subd. 2. **CARRYFORWARD NOTICE.** If an issuer intends to carry forward an allocation received under this chapter, it must notify the department in writing before the last Monday of December. If the written notice of carryforward is not provided within the time required, one-quarter of the amount of the application deposit eligible for refund upon filing of the notice of issue under this section is forfeited.

Sec. 21. Minnesota Statutes 1988, section 474A.14, is amended to read:

**474A.14 NOTICE OF AVAILABLE AUTHORITY.**

The department shall publish in the State Register ~~at least twice monthly~~, a notice of the amount of bonding authority; ~~if any, available for allocation pursuant to sections 474A.061 and 474A.091 in the housing, manufacturing, and public facilities pools as soon after January 1 as possible.~~ The department shall publish in the State Register a notice of the amount of bonding authority available for allocation in the unified pool as soon after September 1 as possible.

**Sec. 22. SUNSET OF QUALIFIED BONDS.**

Subdivision 1. TRANSFER. If federal tax law is not amended by May 31, 1990, to permit the issuance of tax exempt mortgage bonds or small issue bonds past September 30, 1990, all remaining bonding authority available for allocation in the multifamily housing, manufacturing, and public facilities pools is transferred to the unified pool on the first business day in June and must be reallocated as provided in this section.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. APPLICATION. An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation. The issuer must pay the application deposit by check. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under Minnesota Statutes, section 474A.04, subdivision 6.

The Minnesota housing finance agency may not apply for an allocation for mortgage bonds under this section until after the last Monday in June. Notwithstanding the restrictions imposed on the unified pool allocations after July 1 under subdivision 3, paragraph (c), clause (2), the agency may be awarded allocations for mortgage bonds from the unified pool after July 1. The agency may apply for and receive an allocation under this section without submitting an application deposit.

Subd. 3. ALLOCATION PROCEDURE. (a) The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in June through and on the last Monday in August. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. If a Monday falls on a holiday, the allocation will be made or the applications must be received by the next business day.

(b) On or before July 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for small issue bonds;
- (2) applications for residential rental project bonds;
- (3) applications for public facilities projects financed with public facility bonds;
- (4) applications for redevelopment bonds;
- (5) applications for mortgage bonds; and
- (6) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in June and must meet the eligibility requirements of section 7. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an

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allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

(c)(1) On the first Monday in July, \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the manufacturing pool under Minnesota Statutes, section 474A.03, subdivision 1, less the amount allocated to issuers from the manufacturing pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in July, \$2,500,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the public facilities pool under Minnesota Statutes, section 474A.03, subdivision 1, less the amount allocated to issuers from the public facilities pool for that year, whichever is less, is reserved within the unified pool for public facility bonds. If sufficient bonding authority is not available to reserve the required amounts for both small issue bonds and public facility bonds, seven-eighths of the remaining available bonding authority is reserved for small issue bonds and one-eighth of the remaining available bonding authority is reserved for public facility bonds.

(2) Allocations for mortgage bonds from the unified pool may not exceed:

(i) \$10,000,000 for any one city;

(ii) \$20,000,000 for any number of cities in any one county; or

(iii) 60 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

After July 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds, and residential rental project bonds.

(d) If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. REMAINING ALLOCATION. Any remaining bonding authority that has not been allocated by September 1 in the unified pool shall be allocated to the Minnesota housing finance agency.

Subd. 5. RETURN OF ALLOCATION; DEPOSIT REFUND. (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section within 90 days of the allocation or within the time period permitted by federal tax law, whichever is less, the issuer must notify the department. If the

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issuer notifies the department or the 90-day period since allocation has expired prior to the last Monday in August, the amount of allocation is canceled and returned for reallocation through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section within 90 days of the allocation shall receive within 30 days a refund equal to:

(1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving the allocation;

(2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving the allocation; and

(3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving the allocation.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in August.

#### **Sec. 23. TAX CREDIT PROJECTS RECEIVING ALLOCATION PRIOR TO MARCH 31, 1990.**

Projects eligible for federal low-income tax credits that received bonding allocation under Minnesota Statutes, chapter 474A, prior to the effective date of Laws 1990, chapter 368, are subject to the following conditions:

(a) The requirements of Laws 1990, chapter 368, section 6, paragraph (c), do not apply.

(b) The requirements of the applicable qualified allocation plan for the second and third rounds for federal low-income tax credits must apply.

#### **Sec. 24. REPEALER.**

Minnesota Statutes 1988, sections 474.081, subdivisions 1, 2 and 4, and 474A.091, subdivision 4a; and Minnesota Statutes Second 1989 Supplement, section 474A.061, subdivision 2, are repealed. Section 22 is repealed January 1, 1991.

#### **Sec. 25. EFFECTIVE DATE.**

Sections 2 to 6, 8 to 21, and 24 are effective January 1, 1991. Section 7 applies to projects that receive an allocation of bonding authority after the day of final enactment. Sections 1, 7, 22, and 23 are effective the day following final enactment.

Presented to the governor April 26, 1990

Signed by the governor May 4, 1990, 11:29 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.