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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2273

03/07/2019 Authored by Her, Gunther, Hausman and Jurgens The bill was read for the first time and referred to the Housing Finance and Policy Division

1.1 A bill for an act
1.2 relating to housing; repealing certain requirements and limitations on the allocation
1.3 of housing tax credits; amending Minnesota Statutes 2018, section 462A.222,
1.4 subdivision 3.

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

1.6 Section 1. Minnesota Statutes 2018, section 462A.222, subdivision 3, is amended to read:

1.7 Subd. 3. Allocation procedure. (a) Projects will be awarded tax credits in two
1.8 competitive rounds on an annual basis. The date for applications for each round must be
1.9 determined by the agency. No allocating agency may award tax credits prior to the application
1.10 dates established by the agency.

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

1.14 (c) For projects that are eligible for an allocation of credits pursuant to section 42(h)(4)
1.15 of the Internal Revenue Code of 1986, as amended, tax credits may only be allocated if the
1.16 project satisfies the requirements of the allocating agency's qualified allocation plan. For
1.17 projects that are eligible for an allocation of credits pursuant to section 42(h)(4) of the
1.18 Internal Revenue Code of 1986, as amended, for which the agency is the issuer of the bonds
1.19 for the project, or the issuer of the bonds for the project is located outside the jurisdiction
1.20 of a city or county that has received reserved tax credits, the applicable allocation plan is
1.21 the agency's qualified allocation plan.

1.22 (d)(4) To maximize the resources available for and increase the supply of affordable
1.23 housing in Minnesota by leveraging the benefits to Minnesota from the use of tax-exempt

2.1 bonds to finance multifamily housing and to allow local units of government more flexibility  
 2.2 to address specific affordable housing needs in their communities, the agency shall make  
 2.3 residential rental housing projects financed with an allocation of tax-exempt bonds under  
 2.4 chapter 474A the highest strategic priority for tax credits under the agency's qualified  
 2.5 allocation plan under section 42(m)(1)(D) of the Internal Revenue Code of 1986, as amended.

2.6 ~~(2) For projects eligible for an allocation of tax credits under section 42(h)(4) of the~~  
 2.7 ~~Internal Revenue Code of 1986, as amended, the agency's qualified allocation plan and~~  
 2.8 ~~other related agency guidance and requirements:~~

2.9 ~~(i) shall not include any selection criteria other than (A) the criteria of section 42(m)(1)(C)~~  
 2.10 ~~of the Internal Revenue Code of 1986, as amended, and (B) whether the project has received~~  
 2.11 ~~an allocation of tax-exempt bonds under chapter 474A, with subitem (B) as the most~~  
 2.12 ~~important criteria;~~

2.13 ~~(ii) shall grant projects receiving an allocation of tax-exempt bonds under chapter 474A~~  
 2.14 ~~the highest possible preference and, to the extent applicable, ahead of any preference~~  
 2.15 ~~described in section 42(m)(1)(B) of the Internal Revenue Code of 1986, as amended;~~

2.16 ~~(iii) shall exclude any per-unit cost limitations, cost reasonableness, or other similar~~  
 2.17 ~~restrictions for residential rental housing projects financed with an allocation of tax-exempt~~  
 2.18 ~~bonds under chapter 474A; and~~

2.19 ~~(iv) shall not adopt or impose any additional rules, requirements, regulations, or~~  
 2.20 ~~restrictions other than those required by section 42 of the Internal Revenue Code of 1986,~~  
 2.21 ~~as amended, regarding the allocation of credits.~~

2.22 ~~Each developer of a residential rental housing project that has received an allocation of~~  
 2.23 ~~tax-exempt bonds under chapter 474A and the proposed issuer of such tax-exempt bonds~~  
 2.24 ~~shall have standing to challenge the agency's qualified allocation plan for failure to comply~~  
 2.25 ~~with this clause.~~

2.26 ~~In the event of any conflict or inconsistency between this paragraph and section 462A.04,~~  
 2.27 ~~the provisions of this paragraph shall govern and control. The provisions of paragraph (d)~~  
 2.28 ~~shall not apply to any allocating agency other than the agency.~~

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

2.31 (1) in the metropolitan area:

2.32 (i) new construction or substantial rehabilitation of projects in which, for the term of the  
 2.33 extended use period, at least 75 percent of the total tax credit units are single-room

3.1 occupancy, efficiency, or one bedroom units and which are affordable by households whose  
3.2 income does not exceed 30 percent of the median income;

3.3 (ii) new construction or substantial rehabilitation family housing projects that are not  
3.4 restricted to persons who are 55 years of age or older and in which, for the term of the  
3.5 extended use period, at least 75 percent of the tax credit units contain two or more bedrooms  
3.6 and at least one-third of the 75 percent contain three or more bedrooms; or

3.7 (iii) substantial rehabilitation projects in neighborhoods targeted by the city for  
3.8 revitalization;

3.9 (2) outside the metropolitan area, projects which meet a locally identified housing need  
3.10 and which are in short supply in the local housing market as evidenced by credible data  
3.11 submitted with the application;

3.12 (3) projects that are not restricted to persons of a particular age group and in which, for  
3.13 the term of the extended use period, a percentage of the units are set aside and rented to  
3.14 persons:

3.15 (i) with a serious and persistent mental illness as defined in section 245.462, subdivision  
3.16 20, paragraph (c);

3.17 (ii) with a developmental disability as defined in United States Code, title 42, section  
3.18 6001, paragraph (5), as amended through December 31, 1990;

3.19 (iii) who have been assessed as drug dependent persons as defined in section 254A.02,  
3.20 subdivision 5, and are receiving or will receive care and treatment services provided by an  
3.21 approved treatment program as defined in section 254A.02, subdivision 2;

3.22 (iv) with a brain injury as defined in section 256B.093, subdivision 4, paragraph (a); or

3.23 (v) with permanent physical disabilities that substantially limit one or more major life  
3.24 activities, if at least 50 percent of the units in the project are accessible as provided under  
3.25 Minnesota Rules, chapter 1340;

3.26 (4) projects, whether or not restricted to persons of a particular age group, which preserve  
3.27 existing subsidized housing, if the use of tax credits is necessary to prevent conversion to  
3.28 market rate use or to remedy physical deterioration of the project which would result in loss  
3.29 of existing federal subsidies; or

3.30 (5) projects financed by the Farmers Home Administration, or its successor agency,  
3.31 which meet statewide distribution goals.

4.1 (f) Before the date for applications for the final round, the allocating agencies other than  
4.2 the agency shall return all uncommitted and unallocated tax credits to a unified pool for  
4.3 allocation by the agency on a statewide basis.

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

4.6 (h) If an allocating agency determines, at any time after the initial commitment or  
4.7 allocation for a specific project, that a project is no longer eligible for all or a portion of the  
4.8 low-income housing tax credits committed or allocated to the project, the credits must be  
4.9 transferred to the agency to be reallocated pursuant to the procedures established in  
4.10 paragraphs (f) to (h); provided that if the tax credits for which the project is no longer eligible  
4.11 are from the current year's annual ceiling and the allocating agency maintains a waiting list,  
4.12 the allocating agency may continue to commit or allocate the credits until not later than the  
4.13 date of applications for the final round, at which time any uncommitted credits must be  
4.14 transferred to the agency.