

CHAPTER 346—H.F.No. 833

An act relating to economic development; regulating the use of tax-exempt revenue bonds; amending Minnesota Statutes 1990, sections 474A.02, subdivisions 1, 2b, 7, 8, 19, and by adding subdivisions; 474A.03; 474A.04, subdivision 1a; 474A.047, subdivisions 1 and 3; 474A.061, subdivisions 1, 2a, 2b, 2c, 3, and 4; 474A.091, subdivisions 1, 2, 3 and 5; 474A.131, by adding a subdivision; 474A.15; 474A.16; and 474A.17; proposing coding for new law in Minnesota Statutes, chapters 462A and 462C; repealing Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4.

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

Section 1. **[462A.073] SINGLE-FAMILY MORTGAGE BONDS; LIMITATIONS.**

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

(b) "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.

(c) "Metropolitan area" means the metropolitan area as defined in section 473.121, subdivision 2.

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

(e) "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.

(f) "Redevelopment area" means a compact and contiguous area within which the agency finds that 70 percent of the parcels 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.

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

(h) "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

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months of an origination period, the agency 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;
- (2) the new housing is replacing a structurally substandard structure or structures; 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 may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

Subd. 3. NONMETROPOLITAN AREA. The agency 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.

Subd. 4. LIMITATION; COMMITMENTS AND LOANS TO BUILDERS AND DEVELOPERS. The agency 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) and (2). This prohibition is in effect for the total origination period.

Subd. 5. REPORTING REQUIREMENT. The agency 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. 2. [462C.071] SINGLE-FAMILY MORTGAGE BONDS; LIMITATIONS.

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

(b) "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.

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(c) "Metropolitan area" means the metropolitan area as defined in section 473.121, subdivision 2.

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

(e) "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.

(f) "Redevelopment area" means a compact and contiguous area within which the city finds by resolution that 70 percent of the parcels 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.

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

(h) "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, 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;

(2) the new housing is replacing a structurally substandard structure or structures;

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

(4) 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, a city may make loans financed with the proceeds of mortgage bonds for the purchase of new and existing housing.

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Subd. 3. NONMETROPOLITAN AREA. 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.

Subd. 4. REDEVELOPMENT AREA. A city located within the metropolitan area must submit to the metropolitan council 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. 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. A 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. 3. Minnesota Statutes 1990, section 474A.02, subdivision 1, is amended to read:

Subdivision 1. **TERMS DEFINED.** For the purposes of ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter, the terms defined in this section shall have the meanings given them.

Sec. 4. Minnesota Statutes 1990, section 474A.02, subdivision 2b, is amended to read:

Subd. 2b. **CARRYFORWARD.** "Carryforward" means the ability to issue obligations in a year subsequent to the year in which an allocation of bonding authority was obtained under ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter as provided in section 146(f) of federal tax law.

Sec. 5. Minnesota Statutes 1990, section 474A.02, subdivision 7, is amended to read:

Subd. 7. **ENTITLEMENT ISSUER.** "Entitlement issuer" means an issuer to which an allocation is made under section 474A.03, subdivision 2a; ~~and Laws 1987, chapter 268, article 16, section 41, subdivisions 1, clause (a), and 2.~~

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Sec. 6. Minnesota Statutes 1990, 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~~ 1990, 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. 7. Minnesota Statutes 1990, section 474A.02, is amended by adding a subdivision to read:

Subd. 8a. HOUSING POOL. "Housing pool" means the amount of the annual volume cap allocated under section 474A.061 which is available for the issuance of residential rental project bonds or mortgage bonds.

Sec. 8. Minnesota Statutes 1990, section 474A.02, subdivision 19, is amended to read:

Subd. 19. **OTHER ISSUER.** "Other issuer" means an entity other than an entitlement issuer or state issuer which may issue obligations subject to an annual volume cap, including the University of Minnesota, a city, town, federally recognized American Indian tribe or subdivision located in Minnesota, housing and redevelopment authority referred to in ~~chapter 462~~ sections 469.001 to 469.047, or a body authorized to exercise the powers of a housing and redevelopment authority, a port authority referred to in ~~chapter 458~~ sections 469.048 to 469.089, or a body authorized to exercise the powers of a port authority, an economic development authority referred to in ~~chapter 458C~~ sections 469.090 to 469.108, an area or municipal redevelopment agency referred to in ~~chapter 472~~ sections 469.109 to 469.123, a county, or municipal authority or agency established under special law, or an entity issuing on behalf of the foregoing.

Sec. 9. Minnesota Statutes 1990, section 474A.02, is amended by adding a subdivision to read:

Subd. 23b. RENT. "Rent" means the total monthly cost of occupancy payable directly by the tenant and the cost of any utilities, other than telephone. It does not include a charge for a service that is not required as a condition of occupancy.

Sec. 10. Minnesota Statutes 1990, section 474A.02, is amended by adding a subdivision to read:

Subd. 23c. SINGLE-ROOM OCCUPANCY UNIT. "Single-room occupancy unit" means an enclosed dwelling space which does not include within the space a separate bedroom and is suitable for occupancy by one individual person capable of independent living.

Sec. 11. Minnesota Statutes 1990, section 474A.03, is amended to read:

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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, 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:

- (1) ~~\$75,000,000~~ \$65,000,000 to the manufacturing pool;
- (2) \$46,000,000 to the housing pool;
- (3) \$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 and county:

- (1) \$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) \$10,000,000 per year to the Dakota county housing and redevelopment authority for the county of Dakota and all political subdivisions located within the county.

(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. 12. Minnesota Statutes 1990, section 474A.04, subdivision 1a, is amended to read:

Subd. 1a. **ENTITLEMENT RESERVATIONS; CARRYFORWARD; DEDUCTION.** Except as provided in Laws 1987, chapter 268, article 16, section 41, subdivision 2, paragraph (a), any amount returned by an entitlement issuer before the last Monday in ~~August~~ July shall be reallocated through the ~~multifamily~~ housing pool. Any amount returned on or after the last Monday in ~~August~~ July shall be reallocated through the unified pool. An amount returned after the last Monday in November shall be reallocated to the Minnesota hous-

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ing finance agency. Beginning with entitlement allocations received in 1987 under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraphs (2) and (3), there shall be deducted from an entitlement issuer's allocation for the subsequent year an amount equal to the entitlement allocation under which bonds are either not issued, returned on or before the last Monday in December, or carried forward under federal tax law. Except for the Minnesota housing finance agency, any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued by the end of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the next succeeding calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be divided equally for allocation through the manufacturing pool and the ~~multi-~~family housing pool.

Sec. 13. Minnesota Statutes 1990, section 474A.047, subdivision 1, is amended to read:

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 (1) at least one-third of the 75 percent have three or more bedrooms or (2) the proposed project meets the following requirements:

(i) the proposed project is the rehabilitation of an existing multifamily building which meets the requirements for minimum rehabilitation expenditures in section 42(e)(2) of the Internal Revenue Code;

(ii) the developer of the proposed project includes a managing general partner which is a nonprofit organization under chapter 317A and meets the requirements for a qualified nonprofit organization in section 42(h)(5) of the Internal Revenue Code; and

(iii) the proposed project involves participation by a local unit of government in the financing of the acquisition or rehabilitation of the project. 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: (1) statewide median income or (2) county or metropolitan statistical area 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 at least 75 percent of the units of 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.

Sec. 14. Minnesota Statutes 1990, section 474A.047, subdivision 3, is amended to read:

Subd. 3. **PENALTY.** The issuer shall monitor project compliance with the rental rate and income level requirements under subdivision 1. The issuer may issue an order of noncompliance if a project is found by the issuer to be 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~~ issuer equal to one-half of one percent of the total amount of bonds issued for the project under this chapter if the issuer issues an order of noncompliance. 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.~~ The issuer may waive insubstantial violations.

Sec. 15. Minnesota Statutes 1990, 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, (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in ~~August~~ July, or in the amount of two percent of the requested allocation on or after the last Monday in ~~August~~ July, and (5) a public purpose scoring worksheet for small issue applications. The issuer must pay the application deposit by a check made payable to the department of finance. 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 housing pool or from the public facilities pool unless it has either 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.

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(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. 16. Minnesota Statutes 1990, section 474A.061, subdivision 2a, is amended 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 474A.047. After April 1, and ~~until~~ through 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:

(i) 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 ~~1990; except that; or~~

(ii) for a new construction affordability initiative, the greater of 115 percent 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, 1990.

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 474A.048; and

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(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.

The Minnesota housing finance agency may accept applications from July 1 to through 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 the agreement and application deposit checks to the commissioner ~~the amounts allotted to each applicant pursuant to~~. The agreement must specify the amounts allotted to each applicant. 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 through the last Monday in ~~August~~ July, but may request an allocation no later than the last Monday in ~~August~~ July. 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~~ On and after the first Monday in April and through the last Monday in ~~August~~ July, 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 prepay-

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ment 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~~ on the first Tuesday after the first Monday in April.

(f) No city in an entitlement county may apply for or be allocated authority to issue bonds from the housing pool.

Sec. 17. Minnesota Statutes 1990, section 474A.061, subdivision 2b, is amended to read:

Subd. 2b. **MANUFACTURING POOL ALLOCATION.** From the beginning of the calendar year ~~until~~ through the last Monday in ~~August~~ July, 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 474A.045. 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, based upon the number of points received.

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. 18. Minnesota Statutes 1990, section 474A.061, subdivision 2c, is amended to read:

Subd. 2c. **PUBLIC FACILITIES POOL ALLOCATION.** From the beginning of the calendar year ~~until~~ through the last Monday in ~~August~~ July, 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. 19. Minnesota Statutes 1990, section 474A.061, subdivision 3, is amended to read:

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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 Tuesday in ~~September~~ August only if the issuer has submitted to the department before the first Tuesday in ~~September~~ August 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~~ August without submitting an additional deposit.

Sec. 20. Minnesota Statutes 1990, 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 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~~ July, the amount of allocation is canceled and returned 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~~ July, the amount of allocation is canceled and returned 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 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 equal to:

- (1) one-half of the application deposit for the amount of bonding authority returned within 30 days of receiving allocation;
- (2) one-fourth of the application deposit for the amount of bonding authority returned between 31 and 60 days of receiving allocation; and
- (3) one-eighth of the application deposit for the amount of bonding authority returned between 61 and 90 days of receiving allocation.

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

Sec. 21. Minnesota Statutes 1990, section 474A.091, subdivision 1, is amended to read:

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

Sec. 22. Minnesota Statutes 1990, 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, (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. 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~~ August. Notwithstanding the restrictions imposed on unified pool allocations after ~~October~~ September 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~~ September 1. The Minnesota housing finance agency may apply for and receive an allocation under this section without submitting an application deposit.

Sec. 23. Minnesota Statutes 1990, 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~~ August 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~~ September 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;

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- (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~~ August. 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 474A.045. 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 474A.045 are only eligible to receive a proportionally reduced share of the proposed authority, based upon the number of points received. 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 474A.045 with those projects receiving the greatest number of points receiving allocation first.

(c)(1) On the first Monday in ~~October~~ August, \$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~~ September, \$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, 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) 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.

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

After ~~October~~ September 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.

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

(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. 24. Minnesota Statutes 1990, 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 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 for reallocation through the unified pool. If the issuer notifies the department on or after the last Monday in November, the amount of allocation is canceled and returned 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 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 November. This subdivision does not apply to the Minnesota housing finance agency.

Sec. 25. Minnesota Statutes 1990, section 474A.131, is amended by adding a subdivision to read:

Subd. 3. IRREVOCABLE ALLOCATION. The department may not revoke an allocation received under this chapter after receiving a notice of issue from the issuer.

Sec. 26. Minnesota Statutes 1990, section 474A.15, is amended to read:

474A.15 STATE HELD HARMLESS.

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

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter.

Sec. 27. Minnesota Statutes 1990, section 474A.16, is amended to read:

474A.16 EXCLUSIVE METHOD OF ALLOCATION.

~~Laws 1987, chapter 268, article 16, sections 1 to 40 shall be~~ This chapter is the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of federal tax law.

Sec. 28. Minnesota Statutes 1990, section 474A.17, is amended to read:

474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.

Chapter 14 shall not apply to actions taken by any state agency or entity under ~~Laws 1987, chapter 268, article 16, sections 1 to 40~~ this chapter.

Sec. 29. **REPEALER.**

Minnesota Statutes 1990, sections 474A.048; and 474A.081, subdivisions 1, 2, and 4, are repealed.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:30 p.m.

CHAPTER 347—H.F.No. 694

An act relating to the environment; establishing an environmental enforcement account; establishing a field citation pilot project for unauthorized disposal of solid waste; authorizing background investigations of environmental permit applicants; expanding current authority to impose administrative penalties for air and water pollution and solid waste management violations; clarifying that certain persons who own or have the capacity to influence operation of property are not responsible persons under the environmental response and liability act solely because of ownership or the capacity to influence operation; imposing criminal penalties for knowing violations of standards related to hazardous air pollutants and toxic pollutants in water; providing that certain property is subject to forfeiture in connection with convictions for water pollution and air pollution violations; imposing criminal penalties for unauthorized disposal of solid waste; authorizing prosecution of environmental crimes by the attorney general; providing for environmental restitution as part of a sentence; increasing criminal penalties for false statements on documents related to permits and record keeping; requiring reports; appropriating money; amending Minnesota Statutes 1990, sections 18D.331, subdivision 4; 115.071, by adding a subdivision; 115.072; 115B.03, by adding subdivisions; 115C.05; 116.07, subdivision 4d; 116.072, subdivisions 1, 2, 6, 10, and 11; 609.531, subdivision 1; and 609.671; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

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