

CHAPTER 167—S.F.No. 1543

An act relating to public finance; changing procedures for allocating bonding authority; changing provisions relating to housing programs and plans; amending Minnesota Statutes 1994, sections 462C.01; 462C.02, subdivision 3; 462C.04, subdivisions 2 and 3; 462C.071, subdivision 2; 474A.03, subdivisions 1 and 4; 474A.061, subdivisions 2a, 2c, 4, and 6; 474A.091, subdivisions 3 and 5; and 474A.131, subdivision 2; repealing Minnesota Statutes 1994, sections 462C.02, subdivision 2; 462C.03, subdivisions 1 and 5; and 462C.04, subdivision 1.

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

Section 1. Minnesota Statutes 1994, section 462C.01, is amended to read:

462C.01 AUTHORIZATION.

A city may develop and administer programs of (1) making or purchasing mortgage or rehabilitation loans pursuant to section 462C.03 to finance the acquisition or rehabilitation of single family housing by low and moderate income persons and families anywhere within its boundaries, or (2) making or purchasing loans pursuant to section 462C.05 to finance multifamily housing developments or the rehabilitation of multifamily housing developments ~~upon~~ the following conditions:

(a) ~~The city develops a housing plan as required by section 462C.03;~~

(b) ~~A public hearing is held thereon after one publication of notice in a newspaper circulating generally in the city, at least 30 days before the hearing, after which the plan may be adopted by resolution of the governing body with or without amendment;~~

(c) ~~The plan is submitted for review pursuant to section 462C.04, subdivision 1; and~~

(d) ~~Each if the program provided for in the plan is submitted for review pursuant to section 462C.04, subdivision 2.~~

Sec. 2. Minnesota Statutes 1994, section 462C.02, subdivision 3, is amended to read:

Subd. 3. "Program" means an individual component of ~~the~~ a city's overall program for housing plan for which one or more issues of revenue bonds or obligations is proposed.

Sec. 3. Minnesota Statutes 1994, section 462C.04, subdivision 2, is amended to read:

Subd. 2. **PROGRAM REVIEW.** A public hearing shall be held on each program after one publication of notice in a newspaper circulating generally in the city, at least 15 days before the hearing. On or before the day on which

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notice of the public hearing is published, the city shall submit the program to the metropolitan council, if the city is located in the metropolitan area as defined in section 473.121, subdivision 2, or to the regional development commission for the area in which the city is located, if any, for review and comment. The appropriate reviewing agency shall comment on:

(a) ~~whether the program is consistent with the housing plan of the city; and~~

(~~b~~) whether the program furthers local and regional housing policies and is consistent with the metropolitan development guide, if the city is located in the metropolitan area, or adopted policies of the regional development commission; and

(~~b~~) the compatibility of the program with the housing portion of the comprehensive plan of the city, if any.

Review of the program may be conducted either by the board of the reviewing agency or by the staff of the agency. Any comment submitted by the reviewing agency to the city must be presented to the body considering the proposed program at the public hearing held on the program.

A member or employee of the reviewing agency shall be permitted to present the comments of the reviewing agency at the public hearing. After conducting the public hearing, the program may be adopted with or without amendment, provided that any amendments must not be inconsistent with the comments, if any, of the reviewing agency and must not contain any material changes from the program submitted to the reviewing agency other than changes in the financial aspects of any proposed issue of bonds or obligations. If any material change other than a change in the financial aspects of a proposed issue of bonds or obligations, or any change which is inconsistent with the comments of the reviewing agency is adopted, the amended program shall be resubmitted to the appropriate reviewing agency for review and comment, and a public hearing shall be held on the amended program after one publication of notice in a newspaper circulating generally in the city at least 15 days before the hearing. The amended program shall be considered after the public hearing in the same manner as consideration of the initial program.

Sec. 4. Minnesota Statutes 1994, section 462C.04, subdivision 3, is amended to read:

Subd. 3. **CITY REPORT.** Within 30 days after the bonds are issued for a housing program, the city shall submit a report to the Minnesota housing finance agency, the metropolitan council if the city is located within the metropolitan area as defined in section 473.121, subdivision 2, or the appropriate regional development commission. The report must include a program description, the amount of bonds issued, the income limits, and the rent levels.

Sec. 5. Minnesota Statutes 1994, section 462C.071, subdivision 2, is amended to read:

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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; or

(5) the new housing is located in a city that has entered into a housing affordability agreement with the metropolitan council.

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.

Sec. 6. Minnesota Statutes 1994, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. **ANNUAL VOLUME CAP UNDER FEDERAL TAX LAW; POOL ALLOCATIONS.** At the beginning of each calendar year after December 31, 1991, 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) ~~\$65,000,000~~ \$55,000,000 to the small issue pool;

(2) ~~\$46,000,000~~ \$56,000,000 to the housing pool, ~~\$37,000,000~~ of which is reserved until the day after the first Monday in February for single-family housing program;

(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 (4), 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.

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Sec. 7. Minnesota Statutes 1994, section 474A.03, subdivision 4, is amended to read:

Subd. 4. **APPLICATION FEE.** Every entitlement issuer and other issuer shall pay to the commissioner a nonrefundable application fee to offset the state cost of program administration. The application fee is \$20 for each \$100,000 of entitlement or allocation requested, with the request rounded to the nearest \$100,000. The minimum fee is \$20. Fees received by the commissioner must be credited to the general fund. Application fees for projects of entitlement issuers must be submitted to the commissioner with the notice of issuance of bonds, notice of use of mortgage credit certificates, and notice of carry forward.

Sec. 8. Minnesota Statutes 1994, 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 the first Monday in February, ~~the first Monday in March, and 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 are not restricted to persons who are 55 years of age or older and that meet the eligibility criteria under section 474A.047. If an issuer that receives an allocation under this paragraph does not issue obligations equal to all or a portion of the allocation received within 120 days of the allocation or returns the allocation to the commissioner, the amount of the allocation is canceled and returned for reallocation through the housing pool.

(b) After ~~April~~ February 1, and through ~~April~~ February 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 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 the federal price limits for housing up to a maximum of \$95,000; 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 \$95,000.

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;

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(4) the housing program meets the requirements of section 474A.048; and

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

Applications by a consortium shall include the name of each member of the consortium and the amount of allocation requested by each member.

The Minnesota housing finance agency may accept applications from ~~July 1~~ June 15 through ~~July 15~~ June 30 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~~ agency must allot available bonding authority ~~among the applicants.~~ For purposes of paragraphs (a) to (d), "city" means a county or a consortium of local government units that agree through a joint powers agreement to apply together for single-family housing programs, and 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 agreement must specify the amounts allotted to each applicant.~~

(c) The total amount of allocation for mortgage bonds for one city is limited to the lesser of: (i) the amount requested, or (ii) the product of the total amount available for mortgage bonds from the housing pool, multiplied by the ratio of each applicant's population as determined by the most recent estimate of the city's population released by the state demographer's office to the total of all the applicants' population, except that each applicant shall be allocated a minimum of \$100,000 regardless of the amount requested or the amount determined under the formula in clause (ii). If a city applying for an allocation is located within a county that has also applied for an allocation, the city's population will be deducted from the county's population in calculating the amount of allocations under this paragraph.

Upon determining the amount of each applicant's allocation, the agency shall forward a list specifying the amounts allotted to each application and application deposit checks to the commissioner.

~~(d) 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 after the first Monday in April~~ February and through the last Monday in July, but may request an allocation no later than the last Monday in July. The commissioner shall return any application deposit to a city that paid an

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application deposit under paragraph (a), clause (5), but was not part of the agreement forwarded to the commissioner under this paragraph.

(e) ~~(e)~~ A city may choose to issue bonds on its own behalf or through a joint powers agreement or may use bonding authority for mortgage credit certificates 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 list~~ agreement list under paragraph ~~(b)~~ (c) has been forwarded to the commissioner. On and after the first Monday in ~~April~~ February and through the last Monday in 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 ~~(e)~~ (d), 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 or mortgage credit certificates 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 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 or use mortgage credit certificates from the housing pool.

~~(g) A city that does not use at least 50 percent of their allotment by April 15 and at least \$200,000 of their allotment in the calendar year in which the allotment is made available under paragraph (b); the date applications are due for the first allocation that is made from the housing pool for single-family housing programs in the immediately succeeding calendar year may not apply to the housing pool for a single-family mortgage bond or mortgage credit certificate program allocation or receive an allotment under from the housing pool agreement in the succeeding two calendar year years. Each local government unit in a consortium must meet the requirements of this paragraph.~~

Sec. 9. Minnesota Statutes 1994, section 474A.061, subdivision 2c, is amended to read:

Subd. 2c. **PUBLIC FACILITIES POOL ALLOCATION.** From the beginning of the calendar year and continuing for a period of 120 days, the commis-

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sioner shall reserve \$5,000,000 of the available bonding authority from the public facilities pool for applications for public facilities projects to be financed by the Western Lake Superior Sanitary District. From the beginning of the calendar year through the last Monday in 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 available bonding authority to provide allocations for all projects in any one week, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

Sec. 10. Minnesota Statutes 1994, 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~~ 120 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~~ 120-day period since allocation has expired prior to the last Monday in 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~~ 120-day period since allocation has expired on or after the last Monday in 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~~ 120 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~~ 120 days of receiving allocation.

(c) No refund shall be available for allocations returned ~~90~~ 120 or more days after receiving the allocation or beyond the last Monday in November. This subdivision does not apply to the Minnesota housing finance agency or the Minnesota rural finance authority.

(d) ~~Notwithstanding paragraph (a), the commissioner shall extend the 90-~~

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day allocation period for an additional 30 days if the issuer applies for an extension and submits an amount equal to one-quarter of one percent of the allocation with the application for an allocation, provided that the 30 days does not extend the allocation period beyond the last Monday in November.

Sec. 11. Minnesota Statutes 1994, section 474A.061, subdivision 6, is amended to read:

Subd. 6. **DEADLINE FOR ISSUANCE OF SMALL ISSUE BONDS.** If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a ~~manufacturing~~ small issue bond project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 474A.091, subdivision 6.

Sec. 12. Minnesota Statutes 1994, 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 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 September 1, allocations shall be awarded from the unified pool in the following order of priority:

- (1) applications for enterprise zone facility bonds;
- (2) applications for small issue bonds;
- (3) applications for ~~residential rental project bonds~~ mortgage bonds;
- (4) applications for public facility projects funded by public facility bonds;
- (5) applications for redevelopment bonds;
- (6) applications for ~~mortgage bonds~~ residential rental project bonds; and
- (7) applications for governmental bonds.

Allocations for residential rental projects may only be made during the first allocation in 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 proportion-

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ally 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 August, \$5,000,000 of bonding authority is reserved within the unified pool for agricultural development bond loan projects of the Minnesota rural finance authority and \$20,000,000 of bonding authority or an amount equal to the total annual amount of bonding authority allocated to the small issue pool under section 474A.03, subdivision 1, less the amount allocated to issuers from the small issue pool for that year, whichever is less, is reserved within the unified pool for small issue bonds. On the first Monday in 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 manufacturing projects and agricultural development bond loan projects, the remaining available bonding authority must be distributed between the two reservations on a pro rata basis, based upon the amounts each would have received if sufficient authority was available.

(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 September 1, allocations shall be awarded from the unified pool only for the following types of qualified bonds: small issue bonds, public facility bonds to finance publicly owned facility projects, and enterprise zone facility 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. 13. Minnesota Statutes 1994, section 474A.091, subdivision 5, is amended to read:

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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~~ 120 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~~ 120-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~~ 120 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~~ 120 days of receiving the allocation.

(c) 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, or the Minnesota rural finance authority.

~~(d) Notwithstanding paragraph (a), the commissioner shall extend the 90-day allocation period for an additional 30 days if the issuer applies for an extension and submits an amount equal to one-quarter of one percent of the allocation with the application for an allocation, provided that the 30 days does not extend the allocation period beyond the last Monday in November.~~

Sec. 14. Minnesota Statutes 1994, 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. 15. **TRANSFER.**

Any remaining balance of bonding authority in the small issue pool on the effective date of this section, up to and including \$20,000,000 of bonding authority, is transferred from the small issue pool to the housing pool for use pursuant to Minnesota Statutes, section 474A.061, subdivision 2a, except that

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the Minnesota housing finance agency may accept applications between June 1, 1995, and June 7, 1995.

Sec. 16. **REPEALER.**

Minnesota Statutes 1994, sections 462C.02, subdivision 2; 462C.03, subdivisions 1 and 5; and 462C.04, subdivision 1, are repealed.

Sec. 17. **EFFECTIVE DATE.**

Sections 8 and 15 are effective the day following final enactment, provided that section 8, paragraph (g), applies to allocations made on or after the day following final enactment. Section 12 is effective January 1, 1996.

Presented to the governor May 12, 1995

Signed by the governor May 15, 1995, 10:04 a.m.

CHAPTER 168—H.F.No. 1479

An act relating to the environment; establishing an environmental improvement pilot program to promote voluntary compliance with environmental requirements; modifying provisions relating to the voluntary investigation and cleanup program; amending Minnesota Statutes 1994, sections 115B.03, by adding subdivisions; 115B.17, by adding a subdivision; 115B.175, subdivisions 2 and 3; 115B.178, subdivision 1; and 116.02.

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

Section 1. Minnesota Statutes 1994, section 115B.03, is amended by adding a subdivision to read:

Subd. 8. TRUSTEES. A trustee who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the trust assets or solely because the trustee has the capacity to direct the operation of the facility.

Sec. 2. Minnesota Statutes 1994, section 115B.03, is amended by adding a subdivision to read:

Subd. 9. PERSONAL REPRESENTATIVES OF ESTATES. A personal representative of an estate who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the assets of the estate or solely because the personal representative has the capacity to direct the operation of the facility.

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