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A bill for an act

relating to capital investment; authorizing the issuance of appropriation bonds for fire-suppressing sprinkler systems in high-rise residential buildings; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16A.

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

Section 1. **LEGISLATIVE FINDINGS; PURPOSE.**

(a) The legislature recognizes that owners of high-rise apartment buildings, particularly those that provide affordable housing to persons of low and moderate income, may find the cost of retrofitting a high-rise building with a fire-suppressing sprinkler system to be prohibitive. The legislature recognizes the safety of residents in high-rise apartment buildings would be improved by the installation of sprinkler systems to mitigate the spread of fires.

(b) The financing provided by Minnesota Statutes, section 16A.962, is for the public purpose of improving tenant safety, particularly for buildings where the state has an interest in ensuring that recipients of the benefits of subsidized housing programs are safe.

Sec. 2. **[16A.962] HIGH-RISE FIRE SAFETY APPROPRIATION BONDS.**

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Appropriation bond" or "bond" means a bond, note, or other similar instrument of the state payable during a biennium from one or more of the following sources:

(1) money appropriated by law from the general fund in any biennium for debt service due with respect to obligations described in subdivision 3, paragraph (a);

(2) proceeds from the sale of obligations described in subdivision 3, paragraph (a);

(3) payments received for that purpose under agreements and ancillary arrangements described in subdivision 3, paragraph (d); and

(4) investment earnings on amounts in clauses (1) to (3).

(c) "Debt service" means the amount payable in any biennium of principal, premium, if any, and interest on appropriation bonds, and the fees, charges, and expenses related to the bonds.

Subd. 2. **Eligible building.** (a) "Eligible building" means an existing residential building that meets the following requirements:

(1) has at least one story used for human occupancy that is 75 feet or more above the lowest level of fire department vehicle access;

(2) was not subject to a requirement to include a sprinkler system at the time the building was constructed; and

(3) has at least two-thirds of its units rented to an individual or family with an annual income of up to 50 percent of the area median income as determined by the United States Department of Housing and Urban Development, adjusted for family size, that is paying no more than 30 percent of annual income on rent.

(b) Eligible building does not include the following:

(1) a monument or war memorial that is included in the National Register of Historic Places or the state register of historic places;

(2) an airport control tower or control room;

(3) an open parking structure;

(4) a building used for agricultural purposes;

(5) a residential building in which at least 70 percent of the dwelling units are owner occupied;

(6) elevator equipment rooms and elevator shafts;

(7) electric generation and distribution facilities operated by a public utility, a municipal utility, or a cooperative electric association;

(8) areas utilized for surgery, surgical recovery, emergency backup power systems, and electrical closets within facilities licensed by the Department of Health;

(9) a manufacturing facility that is required to meet the fire safety standards adopted by the Occupational Safety and Health Administration in Code of Federal Regulations, title 29, part 1910, subpart L; or

(10) an area used exclusively for telecommunications equipment and associated generator and power equipment and under exclusive control of a telecommunications provider if:

(i) the area is separated from the remainder of the building by construction equivalent to a one-hour fire resistant wall and two-hour floor and ceiling assemblies; and

(ii) the area has an automatic fire detection and alarm system that complies with standards in the State Fire Code and State Building Code.

Subd. 3. **Authorization to issue appropriation bonds; appropriation of investment income.** (a) Subject to the limitations of this subdivision, the commissioner may sell and issue appropriation bonds of the state under this section for public purposes as provided by law, including for the purposes of making grants to the owners of eligible buildings for the labor and materials to retrofit eligible buildings with sprinkler systems for fire suppression. Appropriation bonds may be sold and issued in amounts that, in the opinion of the commissioner, are necessary to provide sufficient money to the Minnesota Housing Finance Agency under subdivision 8, not to exceed $....... net of costs of issuance, for the purposes as provided under this subdivision; to pay debt service including capitalized interest, costs of issuance, and costs of credit enhancement; or to make payments under other agreements entered into under paragraph (d).

(b) Proceeds of the appropriation bonds must be credited to a special fire safety appropriation bond proceeds fund in the state treasury. All income from investment of the bond proceeds is appropriated to the commissioner for the payment of principal and interest on the appropriation bonds.

(c) Appropriation bonds may be issued in one or more issues or series on the terms and conditions the commissioner determines to be in the best interests of the state, but the term on any series of appropriation bonds may not exceed 21 years. The appropriation bonds of each issue and series thereof shall be dated and bear interest from the date of issuance, and may be includable in or excludable from the gross income of the owners for federal income tax purposes.

(d) At the time of, or in anticipation of, issuing the appropriation bonds, and at any time thereafter so long as the appropriation bonds are outstanding, the commissioner may enter into agreements and ancillary arrangements relating to the appropriation bonds, including but not limited to trust indentures, grant agreements, lease or use agreements, operating agreements, management agreements, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, or interest exchange agreements. Any payments made or received according to the agreement or ancillary arrangement shall be made from or deposited as provided in the agreement or ancillary arrangement. The determination of the commissioner, included in an interest exchange agreement, that the agreement relates to an appropriation bond, shall be conclusive.

(e) The commissioner may enter into written agreements or contracts relating to the continuing disclosure of information necessary to comply with or facilitate the issuance of appropriation bonds in accordance with federal securities laws, rules, and regulations, including Securities and Exchange Commission rules and regulations in Code of Federal Regulations, title 17, section 240.15c 2-12. An agreement may be in the form of covenants with purchasers and holders of appropriation bonds set forth in the order or resolution authorizing the issuance of the appropriation bonds, or a separate document authorized by the order or resolution.

(f) The sale of appropriation bonds is not subject to chapter 16C.

Subd. 4. **Form; procedure.** (a) Appropriation bonds may be issued in the form of bonds, notes, or other similar instruments in the manner provided in section 16A.672. In the event that any provision of section 16A.672 conflicts with this section, this section shall control.

(b) Every appropriation bond shall include a conspicuous statement of the limitation established in subdivision 7.

(c) Appropriation bonds may be sold at either public or private sale upon such terms as the commissioner shall determine are not inconsistent with this section and may be sold at any price or percentage of par value. Any bid received may be rejected.

(d) Appropriation bonds must bear interest at a fixed or variable rate.

(e) Notwithstanding any other law, appropriation bonds issued under this section shall be fully negotiable.

Subd. 5. **Refunding bonds.** The commissioner may issue appropriation bonds for the purpose of refunding any appropriation bonds issued under subdivision 3 then outstanding, including the payment of any redemption premiums on the bonds, any interest accrued or to accrue to the redemption date, and costs related to the issuance and sale of the refunding bonds. The proceeds of any refunding bonds may, at the discretion of the commissioner, be applied to the purchase or payment at maturity of the appropriation bonds to be refunded, to the redemption of the outstanding appropriation bonds on any redemption date, or to pay interest on the refunding bonds and may, pending application, be placed in escrow to be applied to the purchase, payment, retirement, or redemption. Any escrowed proceeds, pending such use, may be invested and reinvested in obligations that are authorized investments under section 11A.24. The income earned or realized on the investment may also be applied to the payment of the appropriation bonds to be refunded or interest or premiums on the refunded appropriation bonds, or to pay interest on the refunding bonds. After the terms of the escrow have been fully satisfied, any balance of the proceeds and any investment income may be returned to the general fund or, if applicable, the special fire safety appropriation bond proceeds fund for use in any lawful manner. All refunding bonds issued under this subdivision must be prepared, executed, delivered, and secured by appropriations in the same manner as the appropriation bonds to be refunded.

Subd. 6. **Appropriation bonds as legal investments.** Any of the following entities may legally invest any sinking funds, money, or other funds belonging to them or under their control in any appropriation bonds issued under this section:

(1) the state, the investment board, public officers, municipal corporations, political subdivisions, and public bodies;

(2) banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business; and

(3) personal representatives, guardians, trustees, and other fiduciaries.

Subd. 7. **No full faith and credit; state not required to make appropriations.** The appropriation bonds are not public debt of the state, and the full faith, credit, and taxing powers of the state are not pledged to the payment of the appropriation bonds or to any payment that the state agrees to make under this section. Appropriation bonds shall not be obligations paid directly, in whole or in part, from a tax of statewide application on any class of property, income, transaction, or privilege. Appropriation bonds shall be payable in each fiscal year only from amounts that the legislature may appropriate for debt service for any fiscal year, provided that nothing in this section shall be construed to require the state to appropriate money sufficient to make debt service payments with respect to the appropriation bonds in any fiscal year. Appropriation bonds shall be canceled and shall no longer be outstanding on the earlier of (1) the first day of a fiscal year for which the legislature shall not have appropriated amounts sufficient for debt service, or (2) the date of final payment of the principal of and interest on the appropriation bonds.

Subd. 8. **Appropriation of bond proceeds.** The proceeds of appropriation bonds issued under subdivision 3, paragraph (a), and interest credited to the special fire safety appropriation bond proceeds fund are appropriated as follows:

(1) to the Minnesota Housing Finance Agency for grants to owners of eligible buildings; and

(2) to the commissioner of management and budget for debt service on the bonds including capitalized interest, nonsalary costs of issuance of the bonds, costs of credit enhancement of the bonds, and payments under any agreements entered into under subdivision 3, paragraph (d), as permitted by state and federal law.

Subd. 9. **Appropriation for debt service and other purposes.** An amount needed to pay principal and interest on appropriation bonds issued under subdivision 3, paragraph (a), is appropriated each fiscal year from the general fund to the commissioner of management and budget, subject to repeal, unallotment under section 16A.152, or cancellation, otherwise pursuant to subdivision 7, for deposit into the bond payments account established for such purpose in the special fire safety appropriation bond proceeds fund. The appropriation is available beginning in fiscal year 2021 and remains available through fiscal year 2042.

Subd. 10. **Waiver of immunity.** The waiver of immunity by the state provided for by section 3.751, subdivision 1, shall be applicable to the appropriation bonds and any ancillary contracts to which the commissioner is a party.

Subd. 11. **Grant agreements.** In addition to any other terms in a grant agreement between the Minnesota Housing Finance Agency and the owner of an eligible building, a grant of special fire safety appropriation bond proceeds must:

(1) require the grantee to segregate the grant funds in a separate account;

(2) pay to the state, for deposit into the bond payments account established for such purpose in the special fire safety appropriation bond proceeds fund, the proceeds of the sale of any property financed with a grant under this section with a closing date less than ten years after the date of the grant made under this section in an amount up to the amount of the grant; and

(3) require the grantee to report to the Minnesota Housing Finance Agency on the expenditures made from the accounts funded with a grant made under this section in the form that the agency prescribes and include any documentation of and supporting information regarding the expenditures that the agency requires.