

# **MINNESOTA CODE OF AGENCY RULES**

## **RULES OF THE MINNESOTA HOUSING FINANCE AGENCY**

**1982 Reprint**



**All rules as in effect on September 15, 1982**

**Prepared by**

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THE MINNESOTA HOUSING  
FINANCE AGENCY RULES

Chapter One: Scope and Definitions.

12 MCAR § 3.001 Scope. These Rules are made and published pursuant to subdivisions 4 and 11 of § 6 and subd. 10 of § 7 of the Minnesota Housing Finance Agency Law of 1971, and relate to the providing of Development Cost Loans, Mortgage Loans, rehabilitation loans and grants, development grants, and technical assistance to qualified Housing Sponsors for construction and rehabilitation of housing for occupancy by Persons and Families of Low and Moderate Income.

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12 MCAR S 3.002 Definitions.

*see rev. AR03195T (7-6-83)*  
A. The terms defined in the act have the same meaning when used in these rules as are ascribed to them in the act.

B. "Act" means Laws of 1971, chapter 702 (Minnesota Statutes, chapter 462A (1971)), as now in effect and as from time to time amended.

C. "Members" means those persons appointed to the agency pursuant to section 4 of the act.

D. "Executive director" means the executive director employed by the agency, who is the chief administrative officer of the agency.

E. "Housing sponsor" means an individual, a nonprofit entity, a limited dividend entity, or a cooperative housing corporation engaged in sponsoring a housing project for occupancy by persons and families of low and moderate income.

F. "Approved mortgagee" means an individual, partnership, corporation, or other business entity that has been approved by the United States Department of Housing and Urban Development.

G. "Nonprofit" or "nonprofit entity" means and refers to:

1. housing and redevelopment authorities established under and pursuant to the provisions of Minnesota Statutes, sections 462.411 to 462.711 (1971), and

2. those partnerships, joint ventures, corporations, and associations which:

a. are established for a purpose not involving pecuniary gain to the members, partners, or shareholders thereof;

b. pay no dividends or other pecuniary remuneration, directly or indirectly, to the members, partners, or shareholders thereof; and

c. in the case of private, nonprofit corporations, are established under and pursuant to Minnesota Statutes, chapter 317 and are in compliance with all the provisions thereof;

provided, however, that in no event shall a limited dividend entity be deemed a nonprofit entity.

H. "Limited dividend" or "limited dividend entity" means and refers to those individuals, partnerships, joint ventures, and corporations:

1. which, by their organizational documents or by agreement or otherwise, comply with limitations established by the agency or by other governmental agencies, on the rate of return which such individuals, partnerships, joint ventures, or corporations may realize on investments in proposed housing projects, and

2. which, in the case of corporations, are in compliance with all the provisions of Minnesota Statutes, chapter 301 or Minnesota Statutes, chapter 303, whichever is applicable.

I. "Cooperative housing corporation" means and refers to those corporations which qualify as cooperative housing corporations pursuant to section 216 of the Internal Revenue Code of 1954, as amended.

J. "Development cost loan" means a loan, or participation in a loan, with or without interest in the discretion of the members, authorized by resolution of the members and made or to be made to a housing sponsor from the housing development fund created by the act, for the purpose of defraying development costs (commonly referred to as a "seed money loan").

K. "Mortgage loan" means a loan authorized by resolution of the members and made or to be made to a housing sponsor, or to a person or family of low or moderate income, or to a low income purchaser, from the proceeds of sale of the agency's bonds or notes, or from appropriations, for the purpose of providing construction financing, long term financing, or both, for residential housing, and the payment of which is secured or to be secured.

L. "Local community" means and refers to a city, village, or borough, however organized, in the state of Minnesota, and any housing and redevelopment authority created pursuant to the provisions of Minnesota Statutes, sections 462.411 to 462.711 (1971).

M. "Planning grant" means a grant authorized by resolution of the members and made or to be made to a local community from the housing development fund, for the purpose of providing funds to assist the local community in planning for land and building acquisition, improvements, renewal, relocation, or conservation on specific sites upon which housing is or will be situated, for occupancy by persons and families of low and moderate income.

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents of a housing unit, after deducting the following:

1. the income of any resident (except the primary income recipient) who is under 18 years of age or is a full time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;
2. nonrecurring income, as determined by the executive director, and sums received for foster child care;
3. extraordinary medical or other expenses as the executive director approves for exclusion;
4. an amount up to \$750 of the income of an additional income recipient 18 years of age or older other than the primary income recipient;
5. an amount equal to \$750 for each resident of the housing unit who is 18 years of age or over (maximum of two), and \$500 for each additional resident;
6. an amount up to \$750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;



## Exhibit 12 MCAR S 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area	Metropolitan Area
	Maximum Adjusted Income	Maximum Adjusted Income
0-10.59%	\$19,000	\$24,000
10.60-11.09%	\$20,000	\$25,000
11.10-11.59%	\$21,000	\$26,000
11.60-12.00%	\$22,000	\$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed \$22,000 for the nonmetropolitan area and \$27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed \$6,000 and whose assets, excluding the property to be improved, does not exceed \$25,000; and

4. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed \$18,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

P. "Developmentally disabled" means an individual who has a severe, chronic disability which:

1. is attributable to a mental or physical impairment or a combination of mental and physical impairments;
2. is manifested before the person attains the age of 22;
3. is likely to continue indefinitely;
4. results in substantial functional limitations in three or more of the following areas of major life activity; (i) self-care (ii) receptive and expressive language (iii) learning (iv) mobility (v) self-direction (vi) capacity for independent living and (vii) economic sufficiency;
5. reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration.

Q. "Capital contribution of the investors" means the excess of the total development cost of the project as determined by the agency, whether or not paid in cash, over the original principal amount of the agency's loan.

R. "Low income purchasers" means, with respect to chapter nine of these rules, those persons and families whose adjusted income does not exceed \$14,000.

S. "Builder" means a person or entity engaged in the business of housing construction who meets all licensing and other requirements of applicable laws, ordinances, and regulations; who possesses satisfactory experience and creditworthiness; and who will enter into an agreement satisfactory to the agency to sell or rent the residential housing constructed in whole or in part from the proceeds of an agency loan to persons and families of low and moderate income.

T. "Administering entity" means a non-profit or governmental entity (including but not limited to an incorporated county or municipality, a housing redevelopment authority, and a community action organization), which enters into a contract with the agency for the local administration of the home improvement grant or rehabilitation loan program pursuant to chapter seven of these rules.

U. "Multi-unit development" means a loan or grant for new or existing residential housing which is intended for occupancy by more than one family, and the mortgagor of which is a nonprofit or limited dividend entity.

V. "Limited-unit development" means a loan or grant to a person or family of low or moderate income for new or existing residential housing intended for occupancy by such person or family and by not more than five other families.

**12 MCAR § 3.003 Agency meetings.**

A. Regular meetings of the Agency shall be held on the fourth Thursday of each month at 1:00 PM at the offices of the Agency in St. Paul, Minnesota, unless another place of meeting is designated by resolution. In the event such date shall fall on a legal holiday, the regular meeting shall be held the next succeeding business day.

B. Special meetings of the Agency may be called by the Chairperson or by a majority of the existing Members of the Agency, for the purpose of transacting any business designated in the notice, and shall be held at the business offices of the Agency in St. Paul, Minnesota, unless another place of meeting is designated by resolution. At any such special meeting, no business shall be considered other than as designated in the notice; provided, however, that if all of the Members of the Agency are present at such special meeting, this limitation shall not apply.

C. A majority of the existing Members of the Agency shall constitute a quorum for the purpose of conducting the Agency's business and exercising its powers and for all other purposes, but a smaller number may adjourn from time to time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Agency on the vote of the majority of the Members present.

**12 MCAR § 3.004 Public appearances at meetings of the members.** The following procedures shall govern public appearances at meetings of the Members:

A. With respect to regular meetings, the Executive Director shall complete the agenda for meetings of the Members, not less than five nor more than seven days prior to the date of any such meeting.

B. With respect to regular meetings, any person who desires to appear and address the Members shall make a written request to the Executive Director, with a copy to the Chairperson, at least ten days prior to the date of the meeting, setting forth the nature of the matter about which such person wishes to appear.

C. With respect to regular or special meetings, any person who desires to appear and address the Members with respect to any matter enumerated on the agenda shall make a written request to the Executive Director, with a copy to the Chairperson, at least twenty-four hours before the meeting.

D. Any Member may at any time request that a person be permitted to appear and address the Members at any regular or special meeting.

E. All such requests shall be placed on the agenda for review by the Members at the meeting. A majority vote of the Members present shall be required in order to grant any such request to address the Members.

**12 MCAR §§ 3.005-3.009 Reserved for future use.**

## **Chapter Two: General Provisions.**

**12 MCAR § 3.010 Applications.** The Executive Director may provide staff services to assist a Housing Sponsor in complying with the requirements of the Act and these Rules and may establish a preapplication procedure.

**12 MCAR § 3.011 Eligible Housing Sponsors.** No Development Cost Loan, pursuant to Chapter Three of these Rules, or Multi-Unit Development Mortgage Loan, pursuant to Chapter Four of these Rules, shall be made or disbursed until such time as the Housing Sponsor is an eligible Sponsor. An eligible Housing Sponsor is a Sponsor which is authorized by the Act to receive a Development Cost Loan or a Multi-Unit Development Mortgage Loan and which has obtained the Executive Director's approval of its organizational documents, including proposed or existing articles of incorporation, proposed or existing partnership agreement, joint venture agreement, trust agreement, or other document of basic organization, and proposed amendments thereto, together with such other documents as the Executive Director may determine, in specific cases, are necessary in order to determine eligibility.

**12 MCAR § 3.012 Civil rights.** All Agency projects must be administered in compliance with all applicable federal, state, and local civil rights laws, ordinances, and regulations including but not limited to those applying to the selection of recipients for Agency loans and grants, and the site selection, construction, purchase, and rental of residential housing financed in whole or in part with Agency participation. Any determination that a project or recipient has failed to comply with the civil rights laws, if made by a court or an administrative agency charged with the enforcement of said laws, shall be sufficient grounds for termination of Agency participation and immediate recall of outstanding Agency loans. This section shall not be construed to prohibit housing programs administered by or for American Indians.

**12 MCAR § 3.013 Credit review.** The Agency may review, or cause to be reviewed, loan and mortgage applications for suitable creditworthiness. In evaluating creditworthiness the Agency may consider:

- A. the percentage of applicant's income which can reasonably be expected to be spent on housing costs;
- B. the amount of applicant's outstanding debts;
- C. the applicant's employment history and likelihood of continued employment;
- D. the applicant's credit history;
- E. whether applicant has ever sought bankruptcy relief; and
- F. on a case by case basis, the general educational background and residential stability of the applicant.

**12 MCAR § 3.014 Forms and procedures.** With respect to each Mortgage Loan program, rehabilitation loan program, rehabilitation grant program, and Development Cost Loan program from time to time instituted by the Agency, the Executive Director shall prepare guides setting forth uniform procedures by which applications for loans or grants shall be submitted, the contents thereof, and the conditions upon which loans or grants shall be made. Each said guide, and any amendments thereto, shall be submitted to the Members of the Agency for their review at any regular or special meeting called for such purpose and shall become effective only upon the approving vote of the Members.

**12 MCAR § 3.015 Waivers.** The provisions of these Rules may be waived by the Members upon their determination that the application of such Rules, in specific cases, may result in undue hardship.

**12 MCAR § 3.016 Separability.** If any word, phrase, sentence, paragraph, section, or part of these Rules is finally adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of these Rules.

**12 MCAR § 3.017 Preference in occupancy.** Each recipient of an Agency loan who is the owner of residential housing occupied in whole or in part by renters shall give preference in occupancy to those Persons and Families of Low and Moderate Income who occupied the residence at the time of the loan application, subject to the right of the owner to reside there himself.

**12 MCAR §§ 3.018-3.020 Reserved for future use.**

### **Chapter Three: Development Cost Loans.**

**12 MCAR § 3.021 Applications.** An application by a Housing Sponsor, or by an approved mortgagee on behalf of a Housing Sponsor, for a Development Cost Loan or for Agency participation in a Development Cost Loan shall contain:

A. Information with respect to the eligibility of the Housing Sponsor, or with respect to the steps which have been taken by such sponsor to become eligible.

B. Information with respect to the site of the proposed housing project, including location, dimensions, ownerships, present zoning, present use and occupancy, relocation requirements as to present occupants, present on-site utilities and streets, present property taxes and assessments, utility charges and liens or other charges on the land and all physical characteristics of the site which might affect construction.

C. Information with respect to the characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges, or sale prices, building type, federally aided mortgage or otherwise, and proposed incidental or appurtenant educational, social, recreational, commercial, community, and other supporting facilities.

D. A schedule of the proposed uses of any requested Development Cost Loan and the amounts proposed to be allocated to each such use.

E. A copy of the option in favor of such Sponsor to purchase property, or other evidence of agreement for, or authorization to purchase of property on the proposed housing site, or a copy of the Certificate of Title or Abstract of Title, as the case may be, evidencing the Sponsor's ownership of such property.

F. Such other information as to the proposed housing project, the Housing Sponsor, or other parties involved in the housing project, as the Executive Director may require.

**12 MCAR § 3.022 Authorization of development loans.** No Development Cost Loan shall be made until the Members of the Agency have received and reviewed the recommendation of the Executive Director relating to such loan, and until the Members of the Agency have adopted a resolution approving such loan, which resolution shall include determinations that:

A. The Housing Sponsor is a Non-Profit Entity.

B. The proceeds of the Development Cost Loan are to be used to defray development costs.

C. The proposed housing project is eligible or potentially eligible for a federally insured construction loan or a federally insured mortgage.

D. The Development Cost Loan is repayable in full concurrently with initial endorsement of the housing project by the FHA.

E. The development of the proposed housing project will assist in fulfilling the purposes of the Act.

In addition, any such resolution may contain such other provisions and conditions which the Members of the Agency, in their sole discretion, deem advisable.

**12 MCAR § 3.023 Evidence of Development Cost Loan.** The Executive Director of the Agency shall not permit any disbursement of an approved Development Cost Loan until such loan is evidenced by a fully executed note or other evidence of indebtedness, and by such other instruments as the Executive Director may in specific cases deem necessary or appropriate.

**12 MCAR § 3.024 Cancellation or recall of Development Cost Loan.** The Members of the Agency may, from time to time, review the remaining unexpected balance of any Development Cost Loan and cancel and/or recall the remaining balance thereof from the Housing Sponsor upon a determination, in the sole discretion of the Members, that reasonable progress has not been and/or will not be made in the development of a housing project.

**12 MCAR §§ 3.025-3.030 Reserved for future use.**

#### **Chapter Four: Mortgage Loans.**

**12 MCAR § 3.031 Application for Multi-Unit Development Mortgage Loans.** An application by a Housing Sponsor, or by an Approved Mortgagee on behalf of a Housing Sponsor, for a Multi-Unit Development Mortgage Loan or for Agency participation in a Multi-Unit Development Mortgage Loan shall contain:

A. Information with respect to the eligibility of the Housing Sponsor, or with respect to the steps which have been taken by such Sponsor to become eligible.

B. Information with respect to the site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy, relocation requirements as to present occupants, present on-site utilities and streets, present property taxes and assessment, utility charges and liens or other charges on the land, and all physical characteristics of the site which might affect construction.

C. Information with respect to the characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental, or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges, or sale prices, building type, federally aided mortgage or otherwise, and proposed incidental or appurtenant educational, social, recreational, commercial, community, and other supporting facilities.

D. Identity and qualifications of the design architect, supervisory architect, Sponsor's attorney, housing consultant, general contractor, marketing or sales agent, and management agent.

E. Architectural drawings and specifications, site plan, schedule of construction costs, reports of soil tests or engineering studies performed, executed construction contract, and evidence of approval of the architectural drawings, specifications, and site plan by governmental bodies having jurisdiction.

F. Proposed marketing plan, reports of market surveys or analyses, schedule of proposed rents, occupancy charges, or sale prices, proposed operating budget, proposed management plan, proposed relocation plan and cost analysis, schedule of the proposed uses of the requested Mortgage Loan, and the amounts to be allocated to each such use including the Sponsor's equity investment where applicable, and a proposed construction schedule.

G. A schedule of the proposed initial rents or occupancy charges.

H. A plan setting forth:

1. arrangements contemplated for tenant referral from local housing authorities or other governmental agencies or community organizations, having contact with potential eligible occupants, and

2. procedures contemplated to make generally known to minority groups the availability of units on a nondiscriminatory basis.

I. Such other information as to the proposed housing project, the Housing Sponsor, or other parties involved in the housing project, as the Executive Director may require.

**12 MCAR § 3.032 Authorization of Multi-Unit Development Mortgage Loans.** No Multi-Unit Development Mortgage Loan shall be made until the Members of the Agency have received and reviewed the recommendation of the Executive Director relating to such loan, and until the Members of the Agency have adopted a resolution approving such loan; which resolution shall include determinations that:

A. A Multi-Unit Development Mortgage Loan would not otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.

B. The development of the proposed housing project will assist in fulfilling the purposes of the Act.

C. In the case of a Housing Sponsor which is a Limited Dividend Entity, the rate of return on the investment in the proposed housing project is reasonable in light of then existing conditions in the housing industry and financial markets and rate of return then prescribed by other governmental agencies.

D. The obligation of the Agency to make such loans is contingent on the ability of the Agency to sell its bonds or bond anticipation notes, on terms which the Members of the Agency, in their sole discretion, deem acceptable.



In addition, any such resolution may contain such other provisions and conditions which the Members of the Agency, in their sole discretion, deem advisable.

**12 MCAR § 3.033 Project selection criteria for Multi-Unit Development Mortgage Loans.** In determining whether to accept applications of Housing Sponsors for Development Cost Loans or Multi-Unit Development Mortgage Loans, the Members shall examine the following facts and make their determinations thereon:

A. Whether a need exists in the geographical area for the proposed development.

B. Whether adequate provision has been made for housing opportunities for minority families, including elderly persons and families.

C. Whether the proposed development is consistent with orderly growth and development in the geographical area.

D. The impact of the proposed development on the physical environment of the surrounding neighborhood.

E. Whether the Housing Sponsor has adequate capacity to proceed promptly to the construction and completion of the proposed development.

F. The extent to which the proposed development will create minority employment and business opportunities.

G. The effect of the proposed development in eliminating substandard housing and preventing the recurrence of such conditions.

H. The extent to which the proposed development will reduce the cost of mortgage financing or rentals for housing for low and moderate income persons and families.

I. The extent to which the proposed development will house persons and families of varied economic means and of a wide range of incomes.

J. The relationship of the proposed development to public facilities, sources of employment, and services (including public transportation, health, education, and recreation facilities, and public utilities) essential to orderly growth.

K. The relationship of the housing development to any comprehensive plans, policies, procedures, and programs adopted and approved according to law by an agency of state or local government acting pursuant to legislative authority, including but not limited to the plans, policies, procedures, and programs of regional development commissions and the Metropolitan Council.

L. Whether a loan would otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.

M. In the case of a Housing Sponsor which is a Limited Dividend Entity, whether the rate of return on its investment in the proposed development is reasonable in light of then existing conditions in the housing industry and financial markets and in the rates of return then prescribed by other governmental agencies.

N. Whether the proposed development will assist in fulfilling the purposes of the Act.

**12 MCAR § 3.034 Occupancy.** Initial occupancy in Multi-Unit Developments financed by the Agency shall be limited to Persons and Families of Low and Moderate Income; provided however, that

A. to the extent necessary to avoid economic loss resulting from inability to achieve full occupancy, and

B. in order to encourage economic integration, a Housing Sponsor may, with the prior written approval of the Executive Director, permit initial occupancy of up to 25% of the units in the housing project by persons and families who are not Persons and Families of Low and Moderate Income. Preference for occupancy in Multi-Unit Developments financed by the Agency may not be given to persons and families by virtue of their prior residence in the community in which the development is located; except that the Housing Sponsor may, with the prior written approval of the Executive Director allow preference for persons and families displaced by public action or natural disaster or for previous residents of a rehabilitated Multi-Unit Development financed by the Agency.

**12 MCAR § 3.035 Evidence of Limited-Unit Development and Multi-Unit Development Mortgage Loans.** The Executive Director of the Agency shall not permit any disbursement of an approved Mortgage Loan until such loan is evidenced by a fully executed note or other evidence of indebtedness, a mortgage, appropriate evidence of insurance, if applicable, and by such other instruments as the Executive Director may in specific cases deem necessary or appropriate.

**12 MCAR § 3.036 Mortgage Loans for Limited-Unit Developments.** Mortgage Loans for Limited-Unit Developments shall be made only to applicants who:

A. are Persons or Families of Low or Moderate Income;

B. are fee owners of the dwelling and who intend to occupy such dwelling as their principal place of residence;

C. satisfy minimum standards of creditworthiness; and

D. execute such documents as the Agency deems necessary to secure the Mortgage Loan.

No Mortgage Loan shall be approved unless the Agency determines that a Mortgage Loan would not otherwise be available, wholly or in part, from a private lender upon equivalent terms and conditions.

12 MCAR §§ ~~3.037-3.040~~ Reserved for future use. *see ARD 04/25T*

#### Chapter Five: Planning Grants.

**12 MCAR § 3.041 Applications.** An application by a Local Community for a Planning Grant shall contain:

A. Information with respect to the status of the applicant as a Local Community.

B. Information with respect to the plan of land or building acquisition, improvement, renewal, relocation, or conservation.

C. The total cost of the plan, the net costs to the Local Community of the plan, and a schedule of the proposed uses of the requested Planning Grant and the amounts to be allocated to each such use.

D. Information with respect to the site upon which the housing is or will be situated, including location, dimensions, ownership, present zoning, present use and occupancy, relocation requirements as to present occupants, present on-site utilities, and streets.

E. Such other information with respect to the site, the Local Community, or other parties involved, as the Executive Director may require.

**12 MCAR § 3.042 Authorization of Planning Grants.** No Planning Grant shall be made until the Members of the Agency have received and reviewed the recommendation of the Executive Director, relating to such Planning Grant, and until the Members of the Agency have adopted a resolution approving such Grant, which resolution shall include determinations that:

A. The applicant is a Local Community.

B. The Local Community is reasonably expected to be able to implement successfully the plan.

C. The plan will meet a social need in the area in which it is to be operative.

D. The development of the plan will assist in fulfilling the purposes of the Act.

E. The amount of the Grant is not in excess of the net costs, exclusive of any federal aid or assistance, as have been or may reasonably be anticipated to be incurred by the Local Community in connection with the plan.

F. The plan relates to a specific site upon which housing is or will be situated, or relates to a site which is or will be used for purposes which are reasonably related to such housing.

In addition, any such resolution may contain such other provisions and conditions which the Members of the Agency, in their sole discretion, deem advisable.

12 MCAR §§ 3.043-3.050 Reserved for future use.

*see new: ARO3495T*

**Chapter Six: Home Improvement Loans.**

**12 MCAR § 3.051 Eligible applications.**

A. Each applicant must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. All persons who, individually or collectively, possess the type of ownership upon which the application is based, or whose income is to be included for the purpose of determining the Adjusted Income, and spouses of all such persons must join in the application and must execute the loan documents. However, occupancy of the property by the applicant shall not be required.

B. Each applicant must be a Person or Family (including nonrelated individual adults) of Low or Moderate Income.

C. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation, as determined by the Agency or by the lending institution, if any, servicing the loan on behalf of the Agency.

D. The structure to be improved must be at least 15 years old, or in need of repair to correct damage resulting from a natural disaster, or in need of repair to correct defects or deficiencies which are hazardous to health or safety, or to directly improve energy efficiency.

E. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

F. The property must be used primarily for residential purposes and must not contain more than six dwelling units. Mobile homes and trailers shall not be eligible for Home Improvement Loans.

G. Home Improvement Loan proceeds must be used to finance only improvements upon or in connection with existing structures.

H. All improvements must be reasonably capable of being completed (except for causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials) within nine months of the date of the first disbursement of funds pursuant to the Home Improvement Loan.

I. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

J. Each applicant who is an owner of residential housing occupied in whole or in part by renters, shall enter into such agreement as the Agency shall require to ensure that for the term of the loan Persons and Families of Low and Moderate Income will occupy at least one of the units in the case of a two unit residence, two of the units in the case of a three unit residence, three of the units in the case of a four unit residence, and four of the units in the case of a five or six unit residence.

6516 12 MCAR S 3.052 Eligible improvements. Improvements made with home improvement loan proceeds shall satisfy the following requirements:

A. Improvements may be made in order:

1. to comply with applicable state, county, and municipal health, housing, building, fire prevention, and housing maintenance codes, or other public standards applicable to housing, or

2. to make the property more desirable to live in, or

3. to increase the market value of the property, or

4. to make the property more habitable, or

5. to make the property more accessible to a handicapped person as provided in chapter seven-a.

B. Each improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures, which materially preserve or improve the basic livability, safety, or utility of the property. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Each improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards; provided, however, that no application for a home improvement loan for property occupied by the owner shall be denied solely because the improvements will not bring such property into full compliance with all such codes and standards.

D. Home improvement loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that such proceeds may be used for improvements which will bring an individual sewage disposal system (including septic systems) located on the property into compliance with local, state, or federal environmental and sanitary standards.

E. All contracts covering all or any portion of an improvement must contain an MHEA approved warranty of workmanship and materials.

**Chapter Six A:**  
**Rental Rehabilitation Loans**

**12 MCAR § 3.053 Eligible applications.**

A. Property interest. Each applicant for a rental rehabilitation loan must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Credit risk. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation as determined pursuant to 12 MCAR § 3.013.

C. Eligible improvements. To be eligible, the structure must be in need of repairs in order to bring it into compliance with Minn. Stat. § 116H.129, subd. 3, state energy conservation standards. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible. Further explanation of this requirement is in 12 MCAR § 3.054.

D. Compliance with zoning ordinances. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. Use of property restricted. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for rental rehabilitation loans.

F. Restriction on loan use. Rental rehabilitation loan proceeds must be used to finance only improvements upon or in connection with existing structures.

G. Time of completion. All improvements must be reasonably capable of being completed within nine months of the date of the first disbursement of funds pursuant to the rental rehabilitation loan except for delays due to causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials.

H. Unavailability of financing. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. Required occupancy. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or fewer must be occupied by persons and families of low and moderate income in at least one of the

units in the case of a one-unit or two-unit rental structure, two of the units in the case of a three-unit rental structure, three of the units in the case of a four-unit rental structure, four of the units in the case of a five-unit or six-unit rental structure, and at least 75 percent of the rental units in the case of rental structures containing more than six units.

#### **12 MCAR § 3.054 Eligible improvements.**

A. Restrictions in general. Improvements made with rental rehabilitation loan proceeds shall be in compliance with 1.-3.

1. The structure must be brought into compliance with the standards established in Minn. Stat. § 116H.129, subd. 3, state energy conservation standards.

2. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible.

3. For structures more than 15 years old, permanent general improvements as described in B. are eligible if the structure has been or will be brought into compliance with the state energy conservation standards.

B. Permanent general improvements. Each improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property. However, conversions of structures, or portions thereof, from nonresidential use to residential use are not eligible. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Other codes and standards. Each improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards, but no application for a rental rehabilitation loan for property occupied by the owner shall be denied solely because the improvements will not bring the property into full compliance with all codes and standards, except that the property must be brought into compliance with state energy conservation standards as specified in A.1.

D. Public improvements. Rental rehabilitation loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that the proceeds may be used for improvements which will bring an individual sewage disposal system located on the property, including septic systems, into compliance with local, state, or federal environmental and sanitary standards.

E. Warranty. All contracts covering all or any portion of an improvement must contain an agency approved warranty of workmanship and materials.

Chapter Seven: Home Improvement Grants and  
Rehabilitation Loans

6577-6589  
12 MCAR S 3.061 Scope. Rules in this chapter govern the home improvement grant program authorized by Minnesota Statutes, section 462A.05, subdivision 15 and the rehabilitation loan program authorized by Minnesota Statutes, section 462A.05, subdivision 14a. The agency is authorized to make rehabilitation loans with or without interest or periodic payments. In this chapter loans made with interest and periodic payments shall be referred to as "flexible loans" and loans made without interest or periodic payments shall be referred to as "deferred loans."

In addition to the requirements of this chapter, a flexible loan must meet the requirements of chapter six of these rules, except that the applicant for a flexible loan need not be a reasonable credit risk as required in 12 MCAR S 3.051 C., and the structure to be improved need not be at least 15 years old as required by 12 MCAR S 3.051 D.

12 MCAR S 3.062 Reservation of funds.

A. For a period of at least 30 days after the agency gives notice that the funds for making rehabilitation grants or loans are available, the agency shall receive requests for reservation of funds from prospective administering entities.

B. Requests for reservation of funds for rehabilitation grants or loans may be made by prospective administering entities to the agency, and shall contain:

1. A plan setting forth the proposed method of delivery of the rehabilitation grants or loans;
2. Evidence satisfactory to the agency that the administering entity has the capacity effectively and efficiently to carry out the plan;
3. Evidence satisfactory to the agency of the approval of the plan by the governing body of the political subdivision within which the plan is to be administered;
4. The specific funding amount requested for a period of not more than 24 months and the administrative allowance, if any, required by the administering entity to defray the expenses of administering the program;
5. Other funding sources available to the administering entity for administration and home improvement; and
6. A description of the targeting plan, if any, whereby the administering entity will establish priorities for awarding grant and loan funds based on an assessment of need within its



jurisdiction, in the event that the number of applications exceeds the number of grants and loans which can be awarded. The targeting plan, if any, shall be subject to approval by the agency and may not have the effect of excluding any otherwise eligible applicant from making an application and being considered eligible for a grant or loan.

C. The agency shall allocate the funds available at any time among the several regions, based upon data assembled by the agency and accurately reflecting housing needs and related factors. The agency shall submit its proposed allocation of funds to the applicable Regional Development Commission (including the Metropolitan Council) and shall consider the comments and recommendations of the commissions with respect to the extent to which the proposed allocation assists in satisfying the housing needs for the region.

6577-6589  
12 MCAR S 3.063 Eligible recipients of rehabilitation grants and loans. In addition to all conditions imposed by the act, an application for a rehabilitation grant or loan shall satisfy the following requirements:

A. The recipient(s) must occupy the structure to be improved as the recipient's(s') principal place of residence and individually or in the aggregate have at least

1. A life estate or

2. A one-third interest in the fee title or in the contract for deed with respect to such structure. The agency may waive or modify the ownership and security requirement when necessary to permit rehabilitation grants for structures located on Indian reservations. For mobile homes taxed as personal property or not permanently affixed to real property recipient(s) must:

a. Be current in any loan payments on the structure, and

b. Individually or in the aggregate have a 100 percent interest in the title to the mobile home.

B. For the purpose of complying with the ownership requirements, the recipient may aggregate his interest in such property with the ownership interests of other individuals also occupying the structure to be improved as their principal place of residence. All individuals occupying the structure to be improved as their principal place of residence and having an ownership interest in such structure must join in the application.

C. Each recipient must be a person or family of low and moderate income as defined in 12 MCAR S 3.002 O.3.

D. "Assets" for purposes of this chapter shall be the sum of

the following, after deducting any outstanding indebtedness:

1. Cash on hand or in checking or savings accounts;
2. Securities or U.S. Savings Bonds;
3. Market value of all interests in real estate (exclusive of the structure to be improved and a parcel of real property of not more than two acres on which such structure is located);
4. Cash value of life insurance policies; and
5. All other property, exclusive of household furnishings, clothing, and one automobile.

517-6589  
12 MCAR S 3.064 Amount of grant or loan. The amount of the rehabilitation grant or loan shall not exceed the lesser of:

- A. \$6,000 or
- B. The actual cost of the work performed, or
- C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR S 3.013. If the recipient is not financially capable of making a monthly loan payment of at least \$10 the recipient shall be eligible for a deferred loan. A recipient who is financially capable of making a monthly loan payment of \$10 or more shall be eligible for a flexible loan.

12 MCAR S 3.065 Responsibilities of administering entity. The administering entity shall have the following responsibilities:

A. The administering entity shall have full responsibility for program implementation including public information, reviewing and screening applicants, choosing recipients, and certifying that the rehabilitation work is satisfactorily completed.

B. The administering entity shall make on-site inspections of the properties to be improved:

1. Before such application is approved and
2. After work has been completed.

C. The administering entity shall not charge an applicant or recipient any application, processing, or other fee.

D. The administering entity may, with the prior written consent of the agency, allocate part of its total funding, to defray a portion of the administrative costs of the program, to the extent that other sources are not available. It shall be the responsibility of the administering entity to bear all administrative costs, including salaries and office rental, automobile and telephone expenses, and costs of counseling or technical assistance. The administrative allowance, if any, shall be distributed by the agency according to a budget submitted by the administering entity and approved by the agency. Disbursements of the administrative allowance shall be contingent upon the agency's review and approval of the satisfactory progress of the program.

6577-10581  
12 MCAR S 3.066 Eligible properties. Grant and loan funds shall be used only to improve properties which meet the following criteria:

A. The property shall be located within the state of Minnesota, be used primarily for residential purposes, and contain no more than two dwelling units, one of them owner-occupied.

B. The property to be improved shall conform to applicable zoning ordinances and possess all appropriate use permits.

C. The improvements shall be made upon or in connection with existing structures, including mobile homes. Trailers shall not be eligible.

D. No property shall be eligible for a home improvement grant or loan if it has been improved by such a grant or loan within the five year period immediately preceding the date on which application for such grant or loan is made, except in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the applicant or to failure of plumbing, heating, or electrical systems, or defects in the roof or foundation systems, as determined by the agency in its sole discretion.

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct installation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

✓ 12 MCAR S 3.067 Eligible improvements. Improvements made with

home improvement grant or loan funds shall satisfy the following requirements:

A. Each improvement shall be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures, which correct defects or deficiencies in the property affecting directly the safety, habitability, or energy usage of the property. Permanent general improvements shall be economically viable in terms of a determination that:

1. The structure will have a reasonable life expectancy after the improvement is made, and
2. The structure will be reasonably livable, safe, and habitable after the improvement is made.

Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for decent, safe, and sanitary properties of the same general type as the property to be improved.

B. Each improvement shall be made in compliance with all applicable health, fire prevention, building, and housing codes and standards; provided, however, that no application for a home improvement grant or loan shall be denied solely because the improvements will not bring such property into full compliance with all such codes and standards.

C. Funds provided under this chapter shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that such funds may be used for that portion of improvements located on the property which will bring an individual water supply system or a sewage disposal system (including septic systems) into compliance with local, state, or federal environmental and sanitary standards.

D. All contracts covering all or any portion of an improvement shall contain an agency approved warranty of workmanship and materials.

E. No grant or loan funds shall be used for the purpose of refinancing or paying off existing indebtedness. All such funds shall be used to finance improvements begun after application for such funds has been approved.

F. For mobile homes taxed as personal property or not permanently affixed to real property eligible improvements shall be limited to the following:

1. Improvements which bring the property into compliance with current standards for energy efficiency, fire safety and anchoring systems.
2. Improvements to remedy imminent safety hazards, or

accessibility modifications.

3. Other permanent general improvements, if after completion of all improvements the mobile home will comply with the standards referred to in paragraph 1.

G. Improvements which affect the accessibility of a dwelling for a handicapped person are eligible improvements provided that they are performed in compliance with the following conditions:

1. The improvement must be an accessibility improvement as defined in 12 MCAR S 3.071 B.

2. The beneficiary of the improvements must occupy or intend to occupy the dwelling unit to be improved as his or her principal residence.

3. Architectural or engineering costs incurred in the design of accessibility improvements may be funded as eligible improvements.

6577-6589  
12 MCAR S 3.068 Repayment.

A. The recipient of a grant and all individuals who signed the application for such grant shall enter into an agreement with the agency for repayment, which shall provide that in the event the property upon which the improvement is located is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence within six years from the date upon which the grant application was approved, then the recipient shall repay, and the agency shall have a lien as security for repayment of, all or a portion of such grant funds in accordance with the following schedule:

Period of Time Within Which Sale, Transfer, Conveyance, or Cessation of Residency Occurs	Percent Repayment
Prior to end of 36th full month	100%
After end of 36th full month until end of 48th full month	75%
After end of 48th full month until end of 60th full month	50%
After end of 60th full month until end of 72nd full month	25%
After end of 72nd full month	No Repayment

If any grant funds are used for purposes other than an eligible improvement upon eligible property or if the recipient's application is found to contain a material misstatement of fact the recipient shall be liable for repayment of the grant.

B. The recipient of a deferred payment loan and all individuals who signed the application for such loan shall enter into an agreement with the agency for repayment, which shall

provide that in the event the property (upon which the improvement is located) is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence within ten years from the date upon which the grant application was approved, then the recipient shall repay and the agency shall have a lien as security for repayment of all of such loan. If any loan funds are used for purposes other than an eligible improvement upon eligible property or if the recipient's application is found to contain a material misstatement of fact the recipient shall be liable for repayment of the loan.

6577-6589  
12 MCAR S 3.069 Home owner labor agreement. An eligible recipient may agree with an administering entity to do some or all of the improvement work without compensation from the proceeds of the grant or loan, if the administering entity is satisfied as to the recipient's skill and ability to perform the work by the scheduled completion date(s). In such circumstances sufficient grant or loan funds to cover the costs of the labor, in the event that paid contractors must be used to complete such improvements, may be withheld. Upon successful completion of the improvement work so funded, the administering entity may make available to the recipient all or part of the withheld funds for further eligible improvements if it is satisfied on the basis of its prior experience with the recipient that there is no need to withhold funds to ensure completion of the new improvement work.

12 MCAR S 3.070 Emergency home improvement fund. The agency may establish a separate fund known as the emergency home improvement fund. The agency may make emergency home improvement grants and loans in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the applicant, failure of plumbing, heating, or electrical systems, or defects in the roof or foundation systems.

Before an application to the emergency home improvement fund is accepted, the administering entity in the region in which the dwelling is located must establish that it has no funds available from its regular grant and loan funds to cover the cost of repairs. Grants and loans from the emergency home improvement fund shall be made to eligible applicants pursuant to the procedures set forth in chapter seven of these rules, provided however, that the emergency home improvement fund shall not be subject to the allocation requirements of 12 MCAR S 3.062 C.

#### Chapter Seven-A

12 MCAR S 3.071 Definitions.

A. With respect to rehabilitation grants and loans pursuant to chapter seven of these rules and accessibility improvement

assistance pursuant to chapter seven-a of these rules, "handicapped person" means a person who has a permanent physical condition which is not correctable and which substantially reduces such person's ability to function in a residential setting. A person with a physical condition which does not require the use of a device to increase mobility shall be deemed a handicapped person upon the written certification of a licensed physician that the physical condition substantially limits such person's ability to function in a residential setting.

B. "Accessibility improvement" means an interior or exterior improvement or modification to a residential dwelling in Minnesota which is necessary to enable a handicapped person to function in a residential setting.

C. As used in this chapter "percent indebted" means the percent of monthly gross income that a person or family is obliged to pay each month towards all fixed non-business debt which the recipient in good faith has incurred the obligation to pay over a period of more than three months for goods and/or services already provided. Personal debt includes mortgage or contract for deed payments related to the purchase of residential property, but does not include debts incurred solely for the recipient's business or farm operations. The agency shall not include in the calculation of percent indebtedness any debt which the recipient cannot demonstrate has been incurred in good faith. The recipient shall have the burden of demonstrating that any debt incurred within six months of the date of application for accessibility improvement assistance has been incurred in good faith. A finding that a recipient has incurred a debt in order to defraud the agency will be grounds for exclusion from all agency-financed assistance.

6577-6589  
12 MCAR S 3.072 Eligibility. The agency may make funds available for the purpose of making accessibility improvements and for technical assistance in the design and construction of such accessibility improvements under the following conditions:

A. To be eligible the recipient of accessibility improvement assistance shall be a person or family of low or moderate income as defined in 12 MCAR S 3.002 0.4. and shall comply with the ownership and occupancy requirements of 12 MCAR S 3.062.

B. The structure to be improved shall be an existing dwelling located within the state of Minnesota, shall be used primarily for residential purposes, and shall contain no more than two dwelling units, one of them occupied by the recipient.

C. The beneficiary of accessibility improvement assistance shall be a handicapped person of low or moderate income, as defined in 12 MCAR S 3.002 0.4., who shall occupy or intend to occupy the dwelling unit to be improved as his or her primary residence.

6577-6589  
12 MCAR S 3.073 Accessibility improvement assistance shall be made available in the following manner:

A. Accessibility improvement assistance shall be in the form of a grant, a home improvement loan pursuant to chapter six of these rules, or a combination of such grant and loan, depending upon the adjusted income and proportion of existing indebtedness of the recipient. The proportion of assistance to be given in grants shall be determined according to the following table:

B. When an accessibility improvement assistance grant is combined with assistance from other agency loan or grant programs, the requirements of those programs shall be met, provided however that the structure to be improved need not meet the requirements of 12 MCAR S 3.051 D.

C. In no case shall the grant for accessibility improvements and technical assistance inclusively exceed \$10,000 for a single structure nor shall the total assistance for a single structure, including loans and grants from other agency programs, exceed a total of \$15,000.

D. No property shall be eligible for accessibility improvement assistance if it has been improved through such assistance within the five year period next preceding the date on which the application for such assistance is made, except in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the recipient.

12 MCAR S 3.074 Data on accessible housing. The agency shall maintain a public list of dwellings improved under the accessibility improvement assistance program in order to improve the marketability of such accessible dwellings and assist handicapped persons to find housing containing accessibility improvements. Recipients of accessibility improvement assistance shall inform the agency as soon as practical of any intent to sell the improved dwelling so that the agency may make such information available to interested handicapped persons.



**Chapter Eight: American Indian Housing.**

**12 MCAR § 3.090 Scope.** Rules 12 MCAR §§ 3.090-3.108 hereof, together with the Loan Agreement (hereinafter the "Agreement"), govern the housing programs for American Indians of low and moderate income as authorized by Laws of 1976, ch. 254 (hereinafter the "Act"), and the disposition of the appropriation made pursuant to § 16 of said Act, which housing programs are to be developed and administered separately or in combination by the Minnesota Chippewa Tribe, which for purposes of these Rules shall include any corporation established by the Minnesota Chippewa Tribe to carry out the housing program provided for herein and by the Act, (hereinafter collectively the "Tribe"), the Red Lake Band of Chippewa Indians, which for purposes of these Rules shall include any corporation established by the Red Lake Band of Chippewa Indians to carry out the housing program provided for herein and by the Act, (hereinafter collectively the "Band") and the Sioux Communities, which for purposes of these Rules shall include any corporations established by the Sioux Communities to carry out the housing program provided for herein and by the Act, (hereinafter collectively the "Communities").

**12 MCAR § 3.091 Development of plan.** In developing each such housing program, the Tribe, Band, and Communities shall take into account the housing needs of all American Indians residing both on and off reservations within the state. A plan (hereinafter the "Plan") for each such program, which is in accordance with these Rules and which specifically describes the program

- A. content,
- B. utilization of funds,
- C. administration, and
- D. operation and implementation,

shall be submitted to the Minnesota Housing Finance Agency (hereinafter "MHFA") for its review and approval prior to the making of eligible loans.

**12 MCAR § 3.092 Qualifications for housing.** Except as otherwise provided herein and by 12 MCAR § 3.034, each recipient of a loan pursuant to the Act, Plan, and these Rules and each person or family initially occupying a dwelling unit financed pursuant thereto shall be an American Indian as defined by Minn. Stat. § 254A.02, subd. 11, or an American Indian family as hereinafter defined, and of low and moderate income as defined by 12 MCAR § 3.002 O., provided that developers of multi-family housing developments need not be American Indians or of low and moderate income, and further provided that the Tribe, Band, and Communities may qualify as eligible borrowers, if the funds advanced are used to construct eligible housing for resale or rental to eligible recipients and the funds advanced are returned to the revolving loan fund under the jurisdiction of the Tribe, Band, or Communities when permanent financing is obtained. An American Indian family for purposes of these Rules is a family which at the time the loan is granted has at least one resident mortgager who is an American Indian as defined by Minn. Stat. § 254A.02, subd. 11.

**12 MCAR § 3.093 Adjusted Income.** Adjusted Income shall be computed in accordance with 12 MCAR § 3.002 N. To calculate Adjusted Income for purposes of this Rule, the applicant's gross annual income for the two years immediately prior to the date of application for the loan, adjusted in accordance with 12 MCAR § 3.002 N., shall be added to the applicant's projected gross annual income for the year next following the date of application, also adjusted in accordance with 12 MCAR § 3.002 N., and the total thus obtained shall be divided by three.

**12 MCAR § 3.094 Refinancing existing loans.** No loan shall be approved or disbursed for the purpose of refinancing an existing loan. The Plan may set funding priorities for the types of housing loans to be made based upon housing need considerations.

**12 MCAR § 3.095 Limit on sale price or appraisal value.** Each plan submitted to MHFA for approval shall provide for a maximum limitation on the sale price or appraised value, whichever is greater, of a structure or structures designed primarily for residential use by not more than four families, or a dwelling in a planned unit development or a condominium. No loan for rehabilitation of any property shall be made in an amount which, when added to all other existing indebtedness secured by the property, would exceed its market value as determined by a qualified appraiser.

6596  
**12 MCAR § 3.096 Duration of loan.** No loan shall be made for a term in excess of thirty (30) years on a structure or structures designed for occupancy by not more than four families, or a dwelling unit in a planned unit development or a condominium. The maximum term of a rehabilitation loan for an existing structure or structures designed for occupancy by not more than four families or a dwelling unit in a planned unit development or a condominium shall not exceed fifteen (15) years. For all other residential structures, the maximum term of any loan including a rehabilitation loan, granted pursuant to the act, plan, and these rules shall not exceed forty (40) years.

**12 MCAR § 3.097 Security for loans.** Each plan submitted to MHFA for approval shall specify the means by which loans made pursuant to the Plan and these Rules are to be secured.

**12 MCAR § 3.098 Rate of interest.** The rate of interest charged by the Tribe, Band, or Communities on housing loans made pursuant to the Act, the Plan, and these Rules, shall be not less than 2% and not more than the highest rate of interest authorized by applicable usury and lending laws. The prime consideration in establishing rates of interest for eligible loans shall be to make the Plan self-supporting by generating sufficient interest income to offset the expenses incurred in the development and operation of the Plan, with the exception of the first year's expenses which shall be funded from the appropriation provided in the Act upon MHFA's approval of a detailed budget for that first year.

**12 MCAR § 3.099 Remunerating MHFA.** The Agreement shall provide the circumstances under which MHFA shall provide assistance to the Tribe, Band, or Communities and the amount of remuneration to be received by MHFA from the Tribe, Band, and Communities for its assistance and monitoring.

**12 MCAR § 3.100 Revolving Housing Fund.** The Tribe, Band, and Communities shall repay to MHFA, without interest, all funds advanced to it pursuant to the Agreement to the extent and in the manner provided in the Agreement.

**12 MCAR § 3.101 Credit rating.** Each Plan submitted to MHFA for approval shall contain adequate means for determining that the eligible borrower is an acceptable credit risk.

**12 MCAR § 3.102 Audit by Legislative Auditor.** All of the official books and records of the Tribe, Band, and Communities relating to the housing program shall be subject to audit by the Legislative Auditor in the manner prescribed for agencies of state government as required by the Act.

**12 MCAR § 3.103 Final decision on loans.** Each final decision on applications for loans to eligible borrowers made by the Tribe, Band, or Communities from the moneys appropriated by Section 16 of the Act, or from the revolving loan fund under the jurisdiction of the Tribe, Band, or Communities, shall be made by a representative body of the Tribe, Band, or Communities.

**12 MCAR § 3.104 Duties of originator.** The Tribe, Band, and Communities shall each provide information on their respective Plans to eligible borrowers, receive and process loan applications, provide MHFA with a summary of the applications to be funded on a form provided by MHFA and establish lending procedures which comply, to the extent applicable, to the Real Estate Settlement Procedures Act, Truth-in-Lending legislation, and applicable usury and other lending laws. The Tribe, Band, and Communities shall service or cause to be serviced all loans made to them to eligible borrowers. The provisions regarding servicing shall be detailed in the respective Plans and shall outline all servicing responsibilities including, but not limited to, composition and retention of loan files, escrow accounts, reporting systems, handling of delinquencies, and default and foreclosure policies and procedures. To the extent that the Tribe, Band, or Communities enter into housing programs with the Department of Housing and Urban Development (hereinafter "HUD") the Tribe, Band, or Communities shall be relieved of the applicable obligations imposed by this Rule if such obligations are assumed by HUD or otherwise discharged in a manner acceptable to MHFA.

**12 MCAR § 3.105 Building code.** All authorized construction funded by an eligible loan and accomplished pursuant to an approved Plan shall conform to the uniform building code of the State of Minnesota and all applicable federal regulations, rules, or codes. Each plan submitted to MHFA for approval shall contain a means of inspection to insure that any such authorized construction conforms to the applicable building code.

**12 MCAR § 3.106 On and off reservation.** Each Plan shall provide for a reasonable balance in the distribution of funds between American Indians residing on and off reservations within the state, as shown by evidence contained in the Plan concerning on and off reservation population, percentage of low and moderate income American Indians, delivery capabilities, and similar cir-

cumstances. The Plan may provide that at the option of the Tribe, Band, or Communities, the origination and servicing of loans to eligible recipients residing off the reservation may, by separate agreement, be performed by a party or parties selected by the Tribe, Band, or Communities.

**12 MCAR § 3.107 Fees and charges.** The fees and charges to be paid by an eligible borrower in connection with the making of an eligible loan shall be determined by the Tribe, Band, or Communities and specified in the Plan; provided, that if MHFA or its agent originate and service or cause to be serviced eligible loans for qualified borrowers residing off reservations pursuant to 12 MCAR § 3.106 above, MHFA shall determine as to those loans, the reasonable fees and charges to be paid to MHFA and/or its agent, in an amount not to exceed the amount authorized by law.

**12 MCAR § 3.108 Rights of MHFA.** MHFA shall have the right to inspect, copy, or abstract, at reasonable times and upon ten days notice, all books, records, papers, or any other documents relating to the Plan, or loans made pursuant thereto, or any funds held in a revolving loan fund under the jurisdiction of the Tribe, Band, or Communities for the purpose of making eligible loans.

**12 MCAR §§ 3.109-3.110** Reserved for future use.

#### **Chapter Nine: Affordable Home Mortgages.**

**12 MCAR § 3.111 Application for Affordable Home Mortgages.** Affordable Home Mortgages made from the revolving loan fund established pursuant to § 16 (c) of the Laws of 1976, ch. 254, shall meet the following requirements:

A. The proceeds of the Affordable Home Mortgage must be used to construct in Minnesota, a new, single family, owner occupied home of one, two, or three bedrooms.

B. The Affordable Home Mortgage must be used only to finance construction of homes built in conformance with Federal Housing Administration minimum property standards and with design standards approved by the Agency.

C. The Affordable Home Mortgage must create a valid first lien on the real property on which the eligible home is constructed.

**12 MCAR § 3.112 Terms of Affordable Home Mortgage Loans.** Each Affordable Home Loan and Mortgage shall contain the following terms and limitations:

A. The maximum amount of each Affordable Home Mortgage Loan shall be the sum of the actual construction costs plus the development costs. Actual construction costs, which shall be subject to review and approval by the Agency, shall not exceed \$26,500 for a three-bedroom unit; \$24,000 for a

two-bedroom unit, and \$21,000 for a one-bedroom unit. Development costs shall not exceed \$7,500 and shall consist only of the actual costs of land, water and sewer, sewer accessibility charges, and such similar costs of improving the property for occupancy as are approved by the Agency.

B. The mortgage shall be for 30 years from the date of initial mortgage closing and shall be without interest until the first day of the fifth month following initial closing or until final closing, whichever first occurs.

C. A minimum downpayment of 3% of the first \$25,000 and 10% of the remainder of the development and construction costs shall be required. No downpayment shall be required, however, on Veterans Administration mortgages where the mortgagor has not previously used any portion of his guarantee.

D. Closing costs shall be paid by the mortgagor.

E. Each mortgage shall be covered by a title insurance policy approved by the Agency or, with the prior written consent of the Agency, by an Attorney's Opinion if title insurance is unavailable.

F. A plat drawing shall be supplied by the mortgagor unless the Agency determines that a plat of survey certified by a licensed surveyor or engineer is necessary. The legal description of the property to be mortgaged shall be by metes and bounds, or lots and blocks on a recorded map or plat, or in such other form as is acceptable to the Agency.

G. A hazard insurance policy acceptable to the Agency shall cover the mortgaged property and contain a standard mortgagee clause naming the Agency as first mortgagee. Such policy shall be issued by a company authorized to do business in Minnesota and which has a financial rating in Best's Insurance Reports of BBB+ or better.

**12 MCAR § 3.113 Interest.** The interest rate on the Affordable Home Mortgage shall be calculated as follows:

A. The mortgage note shall bear interest at 8%, reduced by an interest credit to reflect family income.

B. To determine the initial interest, the Agency shall determine a Maximum Monthly Housing Expense for the mortgagor based upon thirty-five (35%) percent of his Adjusted Income, converted to a monthly average amount for that period. There shall be deducted from the Maximum Monthly Housing Expense the average amount, as determined by the Agency, for expenses in maintaining the premises to be mortgaged, including real estate taxes, mortgage insurance, hazard insurance, heat, utilities, and maintenance, but excluding principal and interest payments on the mortgage. The balance remaining shall constitute the sum available for the monthly payment of principal and interest for the initial period, based upon the following 29 year, 8 month amortization schedule:

1% interest rate = \$3.25 per month per thousand dollars of mortgage amount  
 2% interest rate = \$3.73 per month per thousand dollars of mortgage amount  
 3% interest rate = \$4.25 per month per thousand dollars of mortgage amount  
 4% interest rate = \$4.81 per month per thousand dollars of mortgage amount  
 5% interest rate = \$5.40 per month per thousand dollars of mortgage amount  
 6% interest rate = \$6.02 per month per thousand dollars of mortgage amount  
 7% interest rate = \$6.68 per month per thousand dollars of mortgage amount  
 8% interest rate = \$7.37 per month per thousand dollars of mortgage amount

In calculating the initial interest rate for the mortgage, the highest rate is to be utilized which will cause the balance of the Maximum Monthly Housing Expense over the projected monthly expenses in maintaining the premises, as defined above, to equal or exceed the monthly payment of principal and interest. Applicants whose Adjusted Income will not support a monthly debt service of at least 1%, determined in accordance with the above, shall not be eligible for an Affordable Home Loan.

C. Example of an Eligible Mortgage:

<u>Mortgage Amount</u>	<u>Constant Monthly Housing Costs</u>
\$21,000 Construction Cost	\$35.00 Utilities
2,650 Land and Development Cost	23.30 Property Taxes
<u>\$23,650 Total Cost</u>	8.17 Hazard Insurance
710 Down Payment	14.00 Maintenance
<u>\$22,940 Mortgage Amount</u>	<u>\$80.47 Total</u>

Mortgagor's Annual Adjusted Income = \$6,000

Mortgagor's Monthly Adjusted Income = \$500 (\$6,000 ÷ 12 months)

35% of Mortgagor's Monthly Adjusted Income = \$175 (35% of \$500)

Calculation for Monthly Mortgage Payment of Principal and Interest

\$175.00 35% of Mortgagor's Monthly Adjusted Income

80.47 Constant Monthly Housing Expenses

\$ 94.53 Mortgagor's amount available for principal and interest

Calculation of Interest Rate

Amount available for principal and interest ÷ mortgage amount in thousands  
= monthly amortization factor:

$\$94.53 \div \$22.94 = \$4.12$  per month per thousand dollars of mortgage amount

The above amortization schedule shows that \$4.12 falls between \$3.73 (which is 2%) and \$4.25 (which is 3%); rounding down gives a 2% interest rate for this example.

Amortization factor of \$3.73 (2%) times mortgage, \$22,940, gives principal and interest payment of \$85.57.

D. For those notes having an initial rate of less than 8%, the interest rate, and the monthly payment of principal and interest based thereon, shall be increased over the rate for the initial period by 1/2 of 1% unless the mortgagor shall submit to the Agency, on or before that March 15 which is not less than twelve (12) months nor more than twenty-four (24) months after final mortgage closing a Recertification of Interest Credit Eligibility, which establishes to the Agency's satisfaction that the mortgagor's current Adjusted Income and Maximum Monthly Housing Expense will not support an increase in debt service payments. On June 1 of each succeeding year, the interest rate, and payments of principal and interest based thereon, will be increased an additional 1/2 of 1%, up to a maximum rate of eight percent (8%) per annum, unless, on March 15 of each succeeding year, the mortgagor submits a Recertification of Interest Credit Eligibility establishing that an increase in interest rate cannot be supported by the mortgagor's current Adjusted Income.

E. The Affordable Home Mortgage may be assumed with permission of the Agency at 8%, or at a lower rate if the new mortgagor is eligible for the interest credit.

**12 MCAR § 3.114 Eligible mortgagors.** To be eligible for an Affordable Home Mortgage, a mortgagor must be a Low Income Purchaser, have an Adjusted Income sufficient to support a monthly debt service as determined in 12 MCAR § 3.113 of at least 1%, and intend to occupy the mortgaged premises as his principal residence.

**12 MCAR § 3.115 Construction loans.** The Agency may make loans for the construction of affordable homes subject to the following terms:

A. A loan may be made to a Builder or a Non-Profit Entity upon a determination that such loan is necessary in order to encourage an adequate supply of affordable homes or to demonstrate the feasibility of affordable homes in a particular area.

B. The construction loan borrower need not be a Person or Family of Low or Moderate Income nor a Low Income Purchaser.

C. The construction loan shall meet all the requirements of and be subject to the same terms as an Affordable Home Mortgage, except that no downpayment shall be required, no closing fee shall be payable, and unless the borrower is in default, no interest shall accrue until the affordable home is sold, or the note reaches maturity.

D. The construction loan borrower shall make a reasonable marketing effort to sell the home constructed with the construction loan to a Low Income Purchaser who is eligible to obtain an Affordable Home Mortgage under this Chapter.

E. Upon request of eligible Low Income Purchasers, the Agency shall make Affordable Home Mortgages for the homes constructed with the proceeds of such construction loans.

F. The construction loan borrower shall agree to abide by the requirements of this Chapter relating to the construction, specifications, sale, and mortgage of the home to be constructed with such loan.

G. The Agency may withhold such part of the construction loan as is necessary to assure completion of the home.

H. The Agency may elect to use the home built with such construction loan for demonstration purposes, in which event the Agency shall pay all maintenance, taxes, and insurance on the home for as long as it is used for demonstration purposes.

12 MCAR §§ 3.116-3.119 Reserved for future use.

*See AR 041157 →*  
Chapter Ten: Innovative Housing Loan Program.

12 MCAR § 3.120 Applications for Innovative Housing Loans. To be eligible to be selected for an Innovative Housing Loan, to be made from the fund established pursuant to Minn. Stat. §§ 462A.05, subd. 18 and 462A.21, subd. 9, each applicant must satisfy the following requirements:

- A. The applicant must be a Non-Profit Entity.
- B. The project must be located in the State of Minnesota.
- C. Satisfactory evidence must be presented of the applicant's ability to organize and to complete the project for which the Innovative Housing Loan is requested.
- D. The project may be a Limited-Unit Development or a Multi-Unit Development, but must be designed for, and intended for occupancy primarily by, Persons and Families of Low or Moderate Income.
- E. Satisfactory evidence must be presented that a loan is not otherwise available from private lenders upon reasonable terms and conditions.
- F. Satisfactory evidence must be presented that the applicant has or will have the ability to repay the Innovative Housing Loan and to obtain other financing, if needed, at the expiration of the term of the Loan.
- G. The project must be innovative; that is, it must involve the use of equipment or materials or of a method of design, construction, marketing, or financing which is not generally in use in the housing industry or of which the public is not generally aware.

12 MCAR § 3.121 Selection criteria for Innovative Housing Loans. In determining whether or not to approve applications from Non-Profit Entities for Innovative Housing Loans, the Members shall examine the following facts and make their determinations thereon:



A. The extent to which the project will conserve energy, result in a more efficient use of energy, or employ a source of energy not generally utilized by the housing industry.

B. The extent to which the innovation is likely to be capable of wide-spread, practical, and economic use.

C. The geographic location of the proposed project within the State of Minnesota, taking into account other projects theretofore approved for Innovative Housing Loans.

D. The period of time required to complete the project.

E. The extent to which the project duplicates, or is in conflict with, other innovations in housing design, methods, or materials.

F. The extent to which the innovation will be capable of being monitored to demonstrate its efficiency, economy, acceptability, effectiveness, and durability.

G. The extent to which the innovation will be capable of and available for demonstration.

H. The amount and term of the requested Innovative Housing Loan, as compared to the total resources of the Agency available for such Loans.

I. Whether the applicable Regional Development Commission has determined that the project is inconsistent with regional plans and policies.

12 MCAR §§ 3.122-3.129 Reserved for future use.

#### **Chapter 11: 12 MCAR §§ 3.131-3.135 Homeownership Assistance Fund.**

**12 MCAR § 3.131 Eligible recipients of Homeownership Assistance Fund loans.** To qualify for a Homeownership Assistance Fund loan, a recipient must satisfy the requirements of 12 MCAR § 3.036 for a Limited-Unit Development Mortgage Loan. No recipient shall have held any ownership interest (either under fee title or by contract for deed) in any residential dwelling within two years prior to the date of the application for the Homeownership Assistance Fund loan.

**12 MCAR § 3.132 General requirements of Homeownership Assistance Fund loans.**

A. The property to be purchased with the assistance of a Homeownership Assistance Fund loan must be a newly-constructed or existing single family residential dwelling located within the State of Minnesota.

B. The purchase of the dwelling must be financed primarily through a Limited-Unit Development Mortgage Loan.

C. The recipient shall obtain and furnish to the Agency all information reasonably required to demonstrate the recipient's eligibility for both a Homeownership Assistance Fund loan and a Limited-Unit Development Mortgage Loan.

D. Each Homeownership Assistance Fund loan shall be secured by a second mortgage on the property to be purchased, which property must otherwise be free and clear of any lien, charge, or encumbrance other than the Limited-Unit Development Mortgage.

E. A Homeownership Assistance Fund loan shall be deemed in default if the recipient defaults in the timely observance and performance of any condition or covenant of the Limited-Unit Development Mortgage Loan or of the Homeownership Assistance Fund loan, or sells, assigns, rents, or transfers the property, whether by deed, contract for deed, or otherwise. A transfer of the property to a surviving joint tenant, if any, by reason of the death of the recipient shall not constitute a default.

F. In the event of default, the Homeownership Assistance Fund loan shall become immediately due and payable in its entirety, at the option of the Agency, and shall be subject to interest from the date of default until the date of payment at that rate of interest which is applicable to the Limited-Unit Development Mortgage on the property.

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6618 12 MCAR § 3.133 Homeownership assistance fund.

A. Monthly assistance. The agency may provide eligible recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on the limited-unit development mortgage on qualifying property. Such payments shall not exceed \$100 per month and shall decrease by \$10 per month or \$120 per year each year. The maximum amount of monthly assistance to which a recipient is originally entitled shall be determined by the agency from time to time on the basis of the percentage of income which may reasonably be spent on mortgage payments, the interest rate charged for limited-unit development mortgage loans, and general housing and construction costs in the state of Minnesota, provided however, that the initial maximum monthly assistance which the agency shall determine to be available shall not exceed the following amounts for persons and families within the following annual adjusted income ranges as set forth in Exhibit 12 MCAR S 3.133 B.-1. and Exhibit 12 MCAR S 3.133. C.-2. for various potential interest rates to be charged by the agency on its limited-unit development mortgage loans.

B. Metropolitan area. Exhibit 12 MCAR S 3.133 B.-1. applies to eligible recipients whose qualifying property is in the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

Exhibit 12 MCAR S 3.133 B.-1.

Initial Maximum

Monthly Assistance

Mortgage  
Interest  
Rate

		\$100	\$80	\$60	\$40	\$20
0- 10.59%	Adj. Hshld. Income	0- 15000	15001- 16000	16001- 17000	17001- 18000	18001- 19000
10.60- 11.09%	Adj. Hshld. Income	0- 16000	16001- 17000	17001- 18000	18001- 19000	19001- 20000
11.10- 11.59%	Adj. Hshld. Income	0- 17000	17001- 18000	18001- 19000	19001- 20000	20001- 21000
11.60- 12.00%	Adj. Hshld. Income	0- 18000	18001- 19000	19001- 20000	20001- 21000	21001- 22000

C. Nonmetropolitan area. Exhibit 12 MCAR S 3.133 C.-2.

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applies to eligible recipients whose qualifying property is not in the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

## Exhibit 12 MCAR S 3.133 C.-2.

		Initial Maximum				
		Monthly Assistance				
Mortgage Interest Rate						
		\$100	\$80	\$60	\$40	\$20
0-	Adj. Hshld.	0-	10001-	11001-	12001-	13001-
10.59%	Income	10000	11000	12000	13000	14000
10.60-	Adj. Hshld.	0-	11001-	12001-	13001-	14001-
11.09%	Income	11000	12000	13000	14000	15000
11.10-	Adj. Hshld.	0-	12001-	13001-	14001-	15001-
11.59%	Income	12000	13000	14000	15000	16000
11.60-	Adj. Hshld.	0-	13001-	14001-	15001-	16001-
12.00%	Income	13000	14000	15000	16000	17000

**12 MCAR § 3.134 Homeownership assistance fund; downpayment assistance.**  
 The agency may provide interest-free downpayment assistance loans to eligible recipients who are determined, on the basis of normal credit procedures, to lack the cash or land equity necessary to pay the required downpayment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the downpayment assistance loan shall equal the amount by which the sum of the downpayment, closing costs, expenses, and origination fees exceeds five percent of the purchase price of the dwelling, but it shall not exceed the lesser of 50 percent of the downpayment or \$1,500.

**12 MCAR § 3.135 Repayment.** Unless earlier repayment is required as the result of default, repayment of the aggregate amount of Monthly Assistance and Downpayment Assistance loans shall commence when the Monthly Assistance payments have declined to zero. Repayment shall be at the rate of \$10 per month for the first year and shall increase by \$10 per month (or \$120 per year) each year until the total Homeownership Assistance Fund loan has been repaid.

**Chapter 12: 12 MCAR §§ 3.140-3.144 Warranty Claims.**

**12 MCAR § 3.140 Defects covered by Warranty Claim Program.** The Agency may make payments to correct defects in construction or rehabilitation of residential housing financed by Agency mortgage loans for Limited-Unit Developments or Home Improvement Loans, if the defects:

A. result in actual damage to load-bearing portions of the dwelling (including damage due to subsidence, expansion, or lateral movement of the soil), to the extent that their loadbearing function is affected and the use of the dwelling for residential purposes is vitally affected or is imminently likely to be vitally affected; or

B. create an emergency condition under which the safety or the residential use and livability of the dwelling is so substantially impaired (or is imminently likely to be so substantially impaired) that an average reasonable person would not, economic considerations aside, remain in the dwelling; or

C. create an imminent hazard for a Handicapped Person.

**12 MCAR § 3.141 Eligible recipients for Warranty Claim Payments.** To qualify for a payment the applicant must satisfy the following requirements:

A. The applicant must be a Person or Family of Low or Moderate Income as defined in 12 MCAR § 3.002 O. 1. at the time of the application for the payment.

B. The applicant must either:

1. have received an Agency mortgage loan for a Limited-Unit Development or an Agency Home Improvement Loan for the construction or rehabilitation of the dwelling containing the defect; or

2. have purchased, from a recipient of an Agency mortgage loan for a Limited-Unit Development or an Agency Home Improvement Loan, a residential dwelling constructed or rehabilitated through the proceeds of such a loan.

C. The applicant must be an individual fee owner or, in the case of an Agency Home Improvement Loan, possess, individually or in the aggregate, at least a one-third interest in a fee, a contract for deed, or a life estate in the dwelling containing the defect, and must occupy the dwelling as the applicant's principal place of residence.

D. The applicant must have taken all steps necessary to maintain the Agency approved warranties and all other applicable warranties in full force and effect.

E. The applicant must agree to cooperate with the Agency in any action to recover from the person responsible for the defect, execute all documents necessary to secure the Agency's right of subrogation to the applicant's claim, and assist the Agency in the prosecution of any legal action for breach of warranty that the Agency may deem appropriate.

**12 MCAR § 3.142 Eligible applications—rehabilitation.** An application for Agency payment under this Chapter which is based upon rehabilitation financed by an Agency Home Improvement Loan must demonstrate that the defects:

A. if caused by faulty workmanship or defective materials due to noncompliance with building standards, arose within one year after completion of the rehabilitation work; or

B. if caused by faulty installation of plumbing, electrical, heating, or cooling systems, or if affecting the load-bearing portions of the dwelling, arose within two years after completion of the rehabilitation work.

In no event may an application be made to the Agency more than two years after the issuance of the Home Improvement Loan, or after any applicable statute of limitations has expired.

**12 MCAR § 3.143 Eligible applications—Limited-Unit Mortgage Loans.** An application for Agency payment under this Chapter which is based upon new construction financed by an Agency mortgage loan for a Limited-Unit Development must show that the defects:

A. if caused by faulty workmanship or defective materials due to noncompliance with building standards, arose within one year after the date of initial occupancy of the dwelling by the loan recipient; or

B. if caused by faulty installation of plumbing, electrical, heating, or cooling systems, arose within two years after the date of initial occupancy of the dwelling by the loan recipient; or

C. if affecting the load-bearing portions of the dwelling, arose within four years after the date of initial occupancy of the dwelling.

In no event may an application be made to the Agency more than four years after the issuance of the mortgage loan, or after any applicable statute of limitations has expired.

**12 MCAR § 3.144 Exclusions.** Agency payments under this Chapter will not extend to the following:

A. loss caused by defects in design, installation, or materials which the loan recipient or subsequent purchaser supplied, installed, or had installed under his/her direction;

B. secondary loss including personal injury or property damage, other than damage to the dwelling itself, caused by the defect or omission; incidental loss such as the cost of alternate shelter during repair of the dwelling; and consequential loss such as the diminution in the value of the dwelling caused by the defect or omission;

C. loss from normal wear and tear;

D. loss from normal shrinkage caused by drying of the dwelling within tolerances of building standards;

E. loss from dampness and condensation due to insufficient ventilation after occupancy;

F. loss from negligency, improper maintenance, or alteration or the dwelling by parties other than the contractor;

G. loss from changes in grading of the ground around the dwelling by parties other than the contractor;

H. landscaping or insect loss;

I. loss from failure to maintain the dwelling in good repair;

J. loss which the loan recipient or purchaser has not taken timely action, whenever feasible, to minimize;

K. accidental loss usually described as acts of God, including, but not limited to: fire, explosion, smoke, water escape, windstorm, hail or lightning, falling trees, aircraft, vehicles, flood, and earthquake, except when the loss is caused by defects in construction or rehabilitation financed by Agency loans;

L. loss from soil movement which is compensated by legislation or covered by insurance;

M. loss due to soil conditions where construction is done upon land which is owned by the loan recipient or subsequent purchaser and which was obtained by him/her from a source independent of the contractor.

626-6633 Chapter Thirteen: Urban Indian Housing Loan Program

12 MCAR S 3.150 Scope of rules. The rules provided in 12 MCAR SS 3.150-3.157 shall govern the implementation of the urban Indian housing loan program established in Minnesota Statutes, section 462A.07, subdivision 15.

12 MCAR S 3.151 Definition. "Administrator" means a nonprofit entity or local community as defined by 12 MCAR S 3.002 or Indian tribal organization eligible pursuant to 12 MCAR SS 3.090-3.108 which carries out a loan program of housing for low and moderate income American Indians using urban Indian housing loan program funds.

12 MCAR S 3.152 The urban Indian housing loan program. The urban Indian housing loan program provides loans for housing for American Indian persons and families residing in urban areas of the state. The program is implemented through administrators selected by the agency after review of proposals submitted pursuant to these rules. A proposal by an administrator may serve all or a portion of the eligible areas of the state of Minnesota. The eligible areas are the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2 and any city with a population greater than 50,000 persons. To the extent practicable, the agency shall allocate urban Indian loan program funds equitably among eligible areas, based upon American Indian population estimates. To assist potential applicants, the agency shall provide, upon request, information describing potential uses of urban Indian housing loan program funds.

12 MCAR S 3.153 Proposal from administrators.

A. The agency shall announce the availability of urban Indian loan program funds by publishing in the State Register a notice of request for proposals and by sending such notice to the persons and organizations on the agency's urban Indian mailing list. The notice shall specify that interested parties should obtain a complete request for proposals from the agency and shall specify the period in which proposals may be submitted, which period may not be less than 60 days from the date on which the notice is published in the State Register.

B. The request for proposals shall be prepared by the agency and made available to interested parties as provided in paragraph A. The request for proposals shall contain a description of the purposes and objectives of the urban Indian housing loan program, the content of a proposal, and the agency process for selecting proposals.

C. The request for proposals shall provide that each proposal submitted to the agency shall contain:



1. evidence that the organization submitting the proposal is a nonprofit entity, local community or Indian tribal organization and evidence that the organization has the capacity to successfully carry out the program;

2. a proposed program which describes, in adequate detail as determined by the agency:

(a) the communities or portions thereof to be served.

(b) the housing needs of the American Indians residing in the areas to be served and the manner in which the proposed program assists in meeting those needs.

(c) a financial description of the program, including the dollar amount of program funds requested, types of loans to be made, the terms of the loans and the costs of program administration and the manner in which these costs will be paid.

(d) a description of the manner in which the program will be implemented and operated, including the duration of the program method of outreach and selection of loan recipients, and procedures for servicing loans over the life of the program.

(e) the source of any funds other than the urban Indian housing loan program to be included in the program of the applicant, and evidence that these funds will be available.

3. any additional information which the agency in its reasonable discretion deems necessary after initial review of the proposal to evaluate the merits of the program. The agency may meet with representatives of the organizations submitting proposals to review proposals and request such additional information.

D. The agency shall provide a copy of each proposal it receives to the Advisory Council on Urban Indians, and shall forward to the advisory council a copy of any additional written material received regarding each proposal. The Advisory Council on Urban Indians shall review all proposals. Upon request of the advisory council, the organization submitting a proposal shall present the proposal before the advisory council.

E. The request for proposals shall provide that an organization submitting a proposal which meets the objectives of the urban Indian housing loan program and which the organization determines is not best presented in the form of proposal required by the request for proposals may submit the proposal in any form desired, provided that the organization also submits a proposal meeting the requirements of the request for proposals.

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12 MCAR S 3.154 Additional requirements. Each program must provide for loans for the construction, purchase, or rehabilitation of residential housing. Except as otherwise provided herein and by 12 MCAR S 3.034, each person or family

initially occupying a dwelling unit financed pursuant to the act, program and these rules shall be an American Indian as defined by Minnesota Statutes, section 254A.02, subdivision 11 or an American Indian family as defined by 12 MCAR S 3.092, and of low and moderate income, as defined by 12 MCAR S 3.002; provided that developers of multifamily housing developments need not be American Indians or low and moderate income. In obtaining assistance under this program, Indian persons and families shall not be discriminated against on the basis of tribal affiliation or tribal enrollment.

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12 MCAR S 3.155 Application of other rules. 12 MCAR SS 3.093-3.098, 3.101 and 3.105 shall apply to programs under this chapter, except that the administrator may make loans with appropriated funds without interest.

12 MCAR S 3.156 Selection of proposals. The agency may approve a program of an administrator in whole or in part, and may approve a program for a limited geographic area. In determining whether or not to approve applications to administer programs under the urban Indian program, the members shall examine the following facts and make their determinations thereon:

A. Any written comments received by the agency from the advisory council regarding the applications for the proposed programs. The agency shall consider the conclusions of the advisory council and the reasons given in support of the conclusions, including the council's evaluation of the applications under the criteria listed in paragraphs B. and C.;

B. The extent to which the program will assist in serving the housing needs of the urban Indian community. Factors to be considered include:

1. the extent to which the program duplicates or is in conflict with other programs which provide housing for urban Indians and the extent to which the program will demonstrate the feasibility of alternative methods for providing housing for urban Indians.
2. the geographic location of the proposed program and the percentage of the Minnesota urban Indian community residing in the geographic area or areas to be served, as determined by the agency according to population data.
3. the method of program administration, the time required to implement the program, and the capacity of the administrator to carry out the program.
4. the extent to which American Indians are involved in the administration of the program, and in the ownership, management, and labor force of any contractors and subcontractors intended to be employed in the program.

C. The extent to which the use of appropriated funds reduces housing costs to American Indian persons or families and the extent to which the program combines the proceeds of appropriated funds with proceeds of bonds of the agency, or of other issues of bonds, or otherwise uses available money to leverage the appropriated funds.

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12 MCAR S 3.157 Agreements. Any decision by the agency to select a proposal to administer funds pursuant to these rules shall be contingent upon the execution of an agreement, satisfactory to the agency, between the agency and the administrator. The agreement shall include a detailed description of the program to be administered and shall provide:

A. The conditions for repayment, without interest of all funds advanced by the agency;

B. The circumstances under which the agency shall provide technical assistance to the administrator and the amount of remuneration to be received by the agency from the administrator for its assistance and monitoring;

C. That, except for loans made under programs administered by the agency under other programs, the final decision on applications for loans to eligible borrowers shall be made by the administrator and that the duties of the originator and rights of the agency shall be the same as those provided for the tribe, band, and communities and the agency pursuant to 12 MCAR SS 3.104, 3.107, and 3.108; and

D. Any further provision necessary to assure that the program will be carried out pursuant to these rules and Minnesota Statutes, section 462A.07, subdivision 15.