

## CHAPTER 462A

## HOUSING FINANCE AGENCY LAW OF 1971

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**462A.01 CITATION.**

Sections 462A.01 to 462A.24 shall be known as and may be cited as the "Minnesota housing finance agency law of 1971."

*History: 1971 c 702 s 1*

**462A.02 POLICY.**

Subdivision 1. It is hereby found and declared that as a result of public actions involving highways, public facilities and urban renewal activities, and as a result of the spread of deteriorated housing and blight to formerly sound urban and rural neighborhoods, and as a result of the inability of private enterprise and investment to produce without public assistance a sufficient supply of decent, safe and sanitary residential dwellings at prices and rentals which persons and families of low and moderate income can afford, there exists within the state of Minnesota a serious shortage of decent, safe and sanitary housing at prices or rentals within the means of persons and families of low and moderate income.

Subd. 2. It is further declared that this shortage of housing for low and moderate income families is inimical to the safety, health, morals and welfare of the residents of the state and to the sound growth and development of its communities. An adequate supply of housing of a variety of housing types serving persons and families of all income levels and properly planned and related to public transportation, public facilities, public utilities and sources of employment and service is essential to the orderly growth and prosperity of the state and its communities. Present patterns of providing housing unduly limit the housing options for many people in the state's urban centers, smaller communities and non-metropolitan areas.

Subd. 3. It is further declared that continuing present patterns of providing housing in the state will limit the ability of the private building industry and the investment industry to produce, without assistance, the needed construction of sanitary, decent and safe residential dwellings at prices or rentals which persons and families of low and moderate income can afford, will result in a failure to provide sufficient long term mortgage financing for housing for low and moderate income families, and will not assure that additional housing will be provided in sufficient quantity in the areas of need and demand.

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Subd. 4. It is further declared that housing assistance programs provided by the federal government are inadequate both in the amount of housing given assistance and the number of dollars available for assistance and that it will not be possible to meet the housing needs of low and moderate income families in Minnesota without state action to supplement federal programs. The legislature also finds that the provision of additional federal resources to assist in the reduction of housing costs for low and moderate income families is dependent upon the state of Minnesota providing administrative capability and a state housing finance program to add to and more effectively utilize federal funds. It is further declared that the provision of an adequate supply of housing for low and moderate income families has been greatly restricted by the rapidly increasing costs of financing housing and that providing an adequate supply of housing to meet the needs of low and moderate income families will not be possible until and unless the cost of mortgage financing for housing for low and moderate income families is reduced by state action.

Subd. 5. It is further declared that in establishing a Minnesota housing finance agency, the legislature is acting in all respects for the benefit of the people of the state of Minnesota to serve a public purpose in improving and otherwise promoting their health, welfare and prosperity and that the Minnesota housing finance agency, as created and established, is empowered to act on the behalf of the people of the state of Minnesota in serving this public purpose for the benefit of the general public.

Subd. 6. It is further declared that it is a valid public purpose to construct housing for low and moderate income families who would otherwise be unable to obtain adequate housing at prices or rentals they could afford, to encourage such construction in the areas of need and demand with a reasonable balance between non-metropolitan and metropolitan areas of the state, and to assist in the elimination of substandard housing conditions and to prevent the recurrence of such conditions by housing persons of varied economic means and a wide range of incomes in the same developments and neighborhoods properly planned and related to public facilities and sources of employment and services and to provide the necessary powers to accomplish these public purposes.

Subd. 7. It is further declared that housing assistance programs provided by the federal government frequently require cooperation by or coordination with an agency of state government and that the availability of particular housing assistance programs of the federal government may depend upon the existence of an agency in state government with the authority and capacity to coordinate and administer such federal housing assistance programs.

Subd. 8. It is further found and declared that many residential dwellings occupied by persons and families of low and moderate income do not conform to building, housing maintenance, fire, health or other state, county and city codes and standards applicable to housing; that many have a market value substantially below the market value that they would have if rehabilitated; that many are substantially less desirable to live in than they would be if rehabilitated; that many are substantially defective or are inadequate for the number of persons occupying them; that many are uninsurable because of fire risks; that many owners of such dwellings cannot afford to make the needed repairs and improvements without expending more than a reasonable portion of their income for housing, and some are unable to afford any additional amount for housing; and that existing private and public means of enterprise and investment cannot provide financing or assistance on terms and conditions within the means of many such owners. These conditions are adverse to the safety, health, and welfare of the citizens of the state, and contrary to the public policy of preventing and eliminating blight in urban and rural areas. The rehabilitation of such housing is more economical and less disruptive than replacement and

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the relocation of the occupants. It is therefore a valid public purpose for the state to preserve and promote the safety, health, and welfare of its citizens by exercise of the powers granted to the Minnesota housing finance agency in this chapter.

Subd. 9. It is further declared that the health, welfare, and personal interests of the mentally ill, mentally retarded, physically handicapped, and drug dependent citizens of Minnesota who are and who may be in need of residential care are better served through the development of a comprehensive, community based system of treatment and care which requires the availability of adequate financing for the construction, renovation, or rehabilitation of residential care facilities as well as sufficient funds for their operational startup costs.

Subd. 10. It is further declared that supplies of conventional energy resources are rapidly depleting in quantity and rising in price and that the burden of these occurrences falls heavily upon the citizens of Minnesota generally and persons of low and moderate income in particular. These conditions are adverse to the health, welfare, and safety of all of the citizens of this state. It is further declared that it is a public purpose to ensure the availability of financing to be used by all citizens of the state, while giving preference to low and moderate income people, to assist in the installation in their dwellings of reasonably priced energy conserving systems including the use of alternative energy resources and equipment so that by the improvement of the energy efficiency of all housing, the adequacy of the total energy supply may be preserved for the benefit of all citizens.

*History: 1971 c 702 s 2; 1973 c 515 s 1; 1974 c 441 s 1-3; 1976 c 218 s 1; Ex1979 c 2 s 44; 1982 c 581 s 24; 1983 c 301 s 203*

## 462A.03 DEFINITIONS.

Subdivision 1. For the purpose of sections 462A.01 to 462A.24 the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Development costs" means the costs approved by the agency as appropriate expenditures which may be incurred by sponsors of land development for residential housing or of residential housing, within this state, prior to commitment and initial advance of the proceeds of an eligible construction loan, or eligible mortgage, and for which temporary loans from the housing development fund may be made by the agency subject to the provisions of section 462A.05, subdivision 5, including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the agency, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys' fees, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies, advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application and other fees.

Subd. 3. "Federally insured construction loan" means a construction loan for residential housing which is insured by the United States or an instrumentality thereof, or by a commitment by the United States or an instrumentality thereof to insure such a loan or to make mortgage insurance available for a residential housing project upon the completion thereof in accordance with federal law and regulations.

Subd. 4. "Federally insured mortgage" means a mortgage loan for residential housing which is insured or guaranteed by the United States or an instrumentality

thereof, or by a commitment by the United States or an instrumentality thereof to insure such a mortgage.

Subd. 5. "Federally insured security" means an evidence of indebtedness insured or guaranteed as to repayment of principal and interest by the United States or an instrumentality thereof.

Subd. 6. "Agency" means the Minnesota housing finance agency created by sections 462A.01 to 462A.24.

Subd. 7. "Residential housing" means a specific work or improvement within this state undertaken primarily to provide residential care facilities for mentally ill, mentally retarded, physically handicapped, and drug dependent persons licensed or potentially eligible for licensure under rules promulgated by the commissioner of human services, or to provide dwelling accommodations for persons and families of low and moderate income and for other persons and families when determined to be necessary in furtherance of the policy of economic integration stated in section 462A.02, subdivision 6, including land development and the acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be incidental or appurtenant thereto.

Subd. 8. "Land development" means the process of acquiring land for residential housing construction, and of making, installing, or constructing nonresidential housing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, roads, streets, curbs, gutters, sidewalks, whether on or off the site, which the agency deems necessary or desirable to prepare such land for residential housing construction within this state.

Subd. 9. "Housing development fund" means the fund established by section 462A.20. "Bond fund" means any fund or funds established by the agency for the disposition of the proceeds of its bonds or notes issued as authorized in sections 462A.08 to 462A.17 and any debt service reserve fund established for the security of bonds or notes pursuant to section 462A.22.

Subd. 10. "Persons and families of low and moderate income" means persons and families, irrespective of race, creed, national origin or sex, determined by the agency to require such assistance as is made available by sections 462A.01 to 462A.24 on account of personal or family income not sufficient to afford adequate housing. In making such determination the agency shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs, (b) the size of the family, (c) the cost and condition of housing facilities available, (d) the eligibility of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing. In the case of federally subsidized mortgages with respect to which income limits have been established by any agency of the federal government having jurisdiction thereover for the purpose of defining eligibility of low and moderate income families, the limits so established shall govern under the provision of sections 462A.01 to 462A.24. In all other cases income limits for the purpose of defining low or moderate income persons shall be established by the agency by emergency or permanent rules.

Subd. 11. "Eligible loan" means any mortgage loan, construction loan, rehabilitation loan, or other loan, whether or not federally insured, granted by the agency to an eligible mortgagor.

Subd. 12. "Eligible security" means any security payable from or evidencing an interest in mortgages securing loans to finance residential housing.

Subd. 13. "Eligible mortgagor" means a nonprofit or cooperative housing corporation, limited profit entity or a builder as defined by the agency in its rules,

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which sponsors or constructs residential housing as defined in subdivision 7, or a natural person of low or moderate income, except that the return to a limited dividend entity shall not exceed ten percent of the capital contribution of the investors or such lesser percentage as the agency shall establish in its rules. Owners of existing residential housing occupied by renters shall be eligible for rehabilitation loans, only if, as a condition to the issuance of the loan, the owner agrees to conditions established by the agency in its rules relating to rental or other matters that will insure that the housing will be occupied by persons and families of low or moderate income. The agency shall require by rules that the owner give preference to those persons of low or moderate income who occupied the residential housing at the time of application for the loan.

Subd. 14. "Federal housing assistance supplements" means and refers to all funds made available to the state of Minnesota by the federal government or any agency or instrumentality thereof for the purpose of assisting in providing adequate and economic housing in the state of Minnesota.

Subd. 15. "Rehabilitation" means the repair, reconstruction, or improvement of existing residential housing with the object of making such residential housing decent, safe, sanitary and more desirable to live in, of greater market value or in conformance with state, county, or city health, housing, building, fire prevention, and housing maintenance codes and other public standards applicable to housing, as determined by the agency.

Subd. 16. "Mentally ill person" shall have the meaning prescribed by section 253B.02, subdivision 13.

Subd. 17. "Mentally retarded person" shall have the meaning prescribed by section 253B.02, subdivision 14.

Subd. 18. "Drug dependent person" shall have the meaning prescribed by section 254A.02, subdivision 5.

Subd. 19. "Residential care facility" means a living unit established primarily for the accommodation and treatment of mentally ill, mentally retarded, physically handicapped, and drug dependent persons.

*History: 1971 c 702 s 3; 1973 c 501 s 15; 1973 c 515 s 2-10; 1974 c 441 s 4-6; 1976 c 218 s 2-6; 1976 c 254 s 1; 1977 c 401 s 2,3; 1981 c 306 s 3; 1982 c 581 s 24; 1983 c 185 s 1; 1984 c 640 s 32; 1984 c 654 art 5 s 58*

## **462A.04 HOUSING FINANCE AGENCY.**

Subdivision 1. There is created a public body corporate and politic to be known as the "Minnesota Housing Finance Agency," which shall perform the governmental functions and exercise the sovereign powers delegated to it in this chapter in furtherance of the public policies and purposes declared in section 462A.02. The agency shall consist of the commissioner of energy and economic development, state auditor, and five public members appointed by the governor with advice and consent of the senate. No more than two public members shall reside in the area of jurisdiction of the metropolitan council as provided in section 473.123, subdivision 1, and no more than one public member shall reside in any one of the development regions established under the provisions of sections 462.381 to 462.396. Each member shall hold office until his successor has been appointed and has qualified. A certificate of appointment or reappointment of any member shall be conclusive evidence of the due and proper appointment of the member.

Subd. 1a. The membership terms, compensation, removal of members, and filling of vacancies for the public members on the agency shall be as provided in section 15.0575.

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Subd. 2. [Repealed, 1976 c 134 s 79]

Subd. 3. [Repealed, 1976 c 134 s 79]

Subd. 4. The chairman of the board of directors shall be designated by the governor from among the public members appointed. The vice-chairman of the board shall be the commissioner of energy and economic development.

Subd. 5. [Repealed, 1976 c 134 s 79]

Subd. 6. The management and control of the agency shall be vested solely in the members in accordance with the provisions of sections 462A.01 to 462A.24.

Subd. 7. The powers of the agency shall be vested in the members thereof in office from time to time and a majority of the members of the agency constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the agency upon a vote of a majority of the members present.

Subd. 8. The agency shall be under the administrative control of an executive director which office is established. He shall be appointed by the governor under the provisions of section 15.06.

The executive director may appoint a deputy director. The executive director may further appoint such permanent and temporary employees as he deems necessary subject to the approval of the commissioner of employee relations. All permanent employees of the agency, except the executive director, deputy director, and additional positions established pursuant to section 43A.08, subdivision 1a are in the classified civil service. Notwithstanding section 16A.752 or any other provision of law to the contrary, any approved complement established by law for the agency shall not be reduced as a result of vacancies in approved positions. No additional deputy commissioner positions may be created.

Subd. 8a. The approved complement of the Minnesota housing finance agency may be increased up to three unclassified positions for the purposes of Laws 1979, Chapter 306, Sections 1 to 16.

Subd. 9. The members and officers of the agency shall not be liable personally, either jointly or severally, for any debt or obligation created or incurred by the agency.

**History:** 1971 c 702 s 4; 1973 c 35 s 74; 1974 c 441 s 7; 1976 c 134 s 73,74; 1976 c 254 s 2; 1977 c 305 s 42; 1977 c 347 s 59; 1979 c 306 s 15; 1980 c 617 s 47; 1981 c 306 s 4; 1981 c 356 s 248; 1982 c 560 s 58; 1983 c 289 s 115 subd 1

## 462A.05 SPECIFIC POWERS OF THE AGENCY.

Subdivision 1. The agency shall have the specific powers and duties set forth in this section.

Subd. 2. It may make or participate in the making of eligible construction loans to sponsors or builders of residential housing for occupancy by persons or families of low and moderate income. Such loans shall be made only upon determination by the agency that construction loans are not otherwise available, wholly or in part, from private lenders upon equivalent terms and conditions.

Subd. 2a. It may make grants to sponsors or builders of multi-unit residential housing for occupancy by persons and families of low and moderate income. The grants shall only be made for the construction or rehabilitation of three bedroom apartment units or townhouse units of four bedrooms or more for large low and moderate income families. No grant shall exceed the amount of \$5,000 per unit. In making grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and shall determine the appropriate security should repayment be required.

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Subd. 3. It may agree to purchase, make, or otherwise participate in the making and enter into commitments for the purchase, making, or participation in the making of long term eligible mortgage loans to sponsors of residential housing for occupancy by persons and families of low and moderate income, or to persons and families of low and moderate income who may purchase residential housing. The loans shall be made only upon determination by the agency that long term mortgage loans are not otherwise available, wholly or in part, from private lenders upon equivalent terms and conditions. In establishing maximum mortgage amounts and maximum purchase prices for single family dwellings, the agency shall take into account housing cost differences in the regions of the state.

Subd. 4. It may purchase and enter into commitments for the purchase of eligible securities, certificates of deposit, time deposits, or existing mortgage loans from banks, savings and loan associations, insurance companies, or other financial intermediaries, provided that the agency shall first determine that the proceeds of such instruments will be utilized for the purpose of making loans for residential housing as defined in section 462A.03, subdivision 7.

Subd. 5. It may make temporary loans solely to "nonprofit" or "cooperative housing" sponsors as defined by the agency, with or without interest, and with such security for repayment, if any, as the agency determines reasonably necessary and practicable, solely from the housing development fund, in accordance with the provisions of section 462A.21, to defray development costs to sponsors of residential housing construction for occupancy by persons and families of low and moderate income which development costs are eligible or potentially eligible for construction loans or mortgages.

Subd. 6. It may accept appropriations, gifts, grants, bequests and devises, and utilize or dispose of the same to carry out its corporate purpose.

Subd. 7. It may make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose.

Subd. 8. It may collect reasonable interest, fees, and charges in connection with making and servicing its loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in connection with providing technical, consultative and project assistance services. Such interest, fees and charges shall be limited to the amounts required to pay the costs of the agency, including operating and administrative expenses, and reasonable allowances for losses which may be incurred.

Subd. 9. It may invest any funds not required for immediate disbursement in accordance with the provisions of section 462A.18, subdivision 2.

Subd. 10. It may sell eligible loans or eligible securities to the federal national mortgage association or any other agency or instrumentality of the United States, and may invest in the capital stock issued by said association or other agency or instrumentality to the extent, if any, required as a condition of such sale.

Subd. 11. It may receive federal housing assistance supplements from the federal government, or from agencies or instrumentalities thereof; may administer and distribute said funds in accordance with the applicable provisions of federal law or regulations governing the administration and distribution of said supplements; and may make and publish such rules and regulations as are necessary to enable it to receive, administer, and distribute said supplements in accordance with said federal laws and regulations.

Subd. 12. It may, from time to time, establish such funds as may be needed in order to receive, administer, and distribute federal housing assistance supplements.

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All federal housing assistance supplements received by the agency are hereby appropriated to the agency.

Subd. 13. In carrying out the policies and purposes declared in section 462A.02, the agency shall prefer those housing projects which are federally subsidized and those loans which are federally insured or guaranteed, to the extent that the agency finds such projects and loans to be available at the times and in the amounts needed to meet the shortage of residential housing for persons and families of low and moderate income.

Subd. 14. It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participation in the making, of eligible loans for rehabilitation to persons and families of low and moderate income, and to owners of existing residential housing for occupancy by such persons and families, for the rehabilitation of existing residential housing owned by them. The loans may be insured or uninsured and may be made with security, or may be unsecured, as the agency deems advisable. The loans may be in addition to or in combination with long term eligible mortgage loans under subdivision 3. They may be made in amounts sufficient to refinance existing indebtedness secured by the property, if refinancing is determined by the agency to be necessary to permit the owner to meet his housing cost without expending an unreasonable portion of his income thereon. No loan for rehabilitation shall be made unless the agency determines that the loan will be used primarily to make the housing more desirable to live in, to increase the market value of the housing, for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering the provisions of this chapter, establish codes and standards. No loan for rehabilitation of any property shall be made in an amount which, with all other existing indebtedness secured by the property, would exceed its market value, as determined by the agency. No loan for rehabilitation of owner occupied residential housing shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing. Rehabilitation loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and conditions.

Subd. 14a. It may make loans to persons and families of low and moderate income to rehabilitate or to assist in rehabilitating existing residential housing owned and occupied by those persons or families. No loan shall be made unless the agency determines that the loan will be used primarily for rehabilitation work necessary for health or safety, essential accessibility improvements, or to improve the energy efficiency of the dwelling. No loan for rehabilitation of owner occupied residential housing shall be denied solely because the loan will not be used for placing the residential housing in full compliance with all state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing. The amount of any loan shall not exceed the lesser of (a) \$7,500, 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 the person or family without the expenditure of an unreasonable portion of the income of the person or family. In making loans, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion of the loan will be repaid and shall determine the appropriate security for the repayment of the loan. Loans pursuant to this subdivision may be made with or without interest or periodic



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payments. No loan under this subdivision shall be denied solely on the basis of the inability of the applicant to make periodic loan payments. Loans made without interest or periodic payments need not be repaid by the borrower if the property for which the loan is made has not been sold, transferred or otherwise conveyed nor has it ceased to be the principal place of residence of the borrower, within ten years after the date of the loan.

Subd. 14b. It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participating in the making, of loans to persons and families, without limitations relating to the maximum incomes of the borrowers, to assist in energy conservation rehabilitation measures for existing housing owned by those persons or families including, but not limited to: weatherstripping and caulking, chimney construction or improvement, furnace or space heater repair, cleaning or replacement, insulation, storm windows and doors, and structural or other directly related repairs essential for energy conservation. Loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equivalent terms and conditions.

Subd. 15. It may make grants to persons and families of low and moderate income to pay or to assist in paying a loan made pursuant to subdivision 14, or to rehabilitate or to assist in rehabilitating existing residential housing owned or occupied by such persons or families. For the purposes of this section, persons of low and moderate income include administrators appointed pursuant to section 566.25, clause (c). No grant shall be made unless the agency determines that the grant will be used primarily to make the housing more desirable to live in, to increase the market value of the housing or for compliance with state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing, or to accomplish energy conservation related improvements. In unincorporated areas and municipalities not having codes and standards, the agency may, solely for the purpose of administering this provision, establish codes and standards. No grant for rehabilitation of owner occupied residential housing shall be denied solely because the grant will not be used for placing the residential housing in full compliance with all state, county or municipal building, housing maintenance, fire, health or similar codes and standards applicable to housing. The amount of any grant 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 the person or family without spending an unreasonable portion of the income of the person or family thereon. In making grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and shall determine the appropriate security should repayment be required.

The agency may also make grants to rehabilitate or to assist in rehabilitating housing under this subdivision to persons of low and moderate income for the purpose of qualifying as foster parents.

Subd. 15a. It may make grants to persons and families of low and moderate income to improve the accessibility of existing residential housing for handicapped occupants, or to assist in paying a loan made pursuant to subdivision 14 to improve the accessibility of existing residential housing for handicapped occupants. Grants may be in an amount up to \$10,000, based upon the cost of the improvements, the financial ability of the person or family receiving the grant, and other appropriate factors including extraordinary medical expenses. Grants may be made in connection with other agency loan or grant programs; provided that in no case may agency rehabilitation loans and any grants pursuant to this section total an amount exceeding \$15,000. Grants made pursuant to this section may include the payment

of money for technical assistance for the design and construction of accessibility improvements. In making grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and shall determine the appropriate security should repayment be required. The agency may gather data on available accessible housing financed under this program and make the information available to interested individuals and groups.

Subd. 15b. It may make grants to assist in energy conservation rehabilitation measures for existing owner occupied housing including, but not limited to: insulation, storm windows and doors, furnace or space heater repair, cleaning or replacement, chimney construction or improvement, weatherstripping and caulking, and structural or other directly related repairs essential for energy conservation. The grant to any household shall not exceed \$2,000.

To be eligible for an emergency energy conservation grant, a household must be certified as eligible to receive emergency residential heating assistance under either the federal or the state program, and either (1) have had a heating cost for the preceding heating season that exceeded 120 percent of the regional average for the preceding heating season for that energy source as determined by the commissioner of energy and economic development, or (2) be eligible to receive a federal energy conservation grant, but be precluded from receiving the grant because of a need for directly related repairs that cannot be paid for under the federal program. The housing finance agency shall make a reasonable effort to determine whether other state or federal loan and grant programs are available and adequate to finance the intended improvements. An emergency energy conservation grant may be made in conjunction with grants or loans from other state or federal programs that finance other needed rehabilitation work. The receipt of a grant pursuant to this section shall not affect the applicant's eligibility for other housing finance agency loan or grant programs.

Subd. 16. (a) It may make payments or expenditures from the housing development fund to persons of low or moderate income, who are recipients of an eligible loan as defined in section 462A.03, subdivision 11, or who have purchased residential housing from a recipient of such eligible loan, and who are owners and occupants of residential housing constructed or rehabilitated under sections 462A.01 to 462A.24, when, in the agency's determination, such residential housing contains defects or omissions which affect the structural soundness, or the use and the livability of such housing, including but not limited to defects or omissions in materials, hardware, fixtures, design, workmanship and landscaping of whatever kind and nature incorporated in said housing and which are covered by an agency approved warranty, for the purposes of (i) correcting such defects, or (ii) paying the claims of the owner arising from such defects, provided, that this authority shall exist only if the owner has requested assistance from the agency not later than four years after the issuance of the eligible loan, or where such residential housing was rehabilitated under sections 462A.01 to 462A.24 only if the owner has requested assistance from the agency not later than two years after the issuance of the eligible loan.

(b) If such owner elects to receive payments or expenditures pursuant to this section, the agency is subrogated to the right of such owner to recover damages against any party or persons reasonably calculated to be responsible for such damages.

(c) The agency may require from the seller of such residential housing, or the contractor responsible for the construction or rehabilitation of such housing, an agreement to reimburse the agency for any payments and expenditures made pursuant to this subdivision with respect to such residential housing.

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Subd. 17. The agency may make conventional loans, as defined in and in accordance with the conditions and limitations prescribed in section 47.20. Notwithstanding section 47.20, conventional loans owned by the agency on May 30, 1981 or thereafter made or purchased may contain provisions which limit, condition, or prohibit assumption of the loans.

Subd. 18. It may make loans to "nonprofit" sponsors as defined by the agency, with or without interest, and with such security for repayment, if any, as the agency determines reasonably necessary and practicable, solely from the housing development fund in accordance with the provisions of section 462A.21, subdivision 9, to encourage innovations in the development or rehabilitation of single and multifamily residential housing including the demonstration of new techniques for energy efficient construction. It may make loans to for-profit sponsors pursuant to this subdivision, provided that the agency shall make the loan with interest at a rate determined by the agency.

It shall promulgate rules, in accordance with the provisions of sections 14.01 to 14.70, relating to the administration of the loans authorized by this subdivision. The rules may define types of projects eligible for loans, criteria for selecting between eligible loans, terms of the loans including interest rates and loan periods, and other characteristics that the agency deems necessary to administer the program.

Subd. 18a. The agency may make loans, with or without interest, and with security for repayment, if any, the agency determines reasonably necessary and practicable, for the financing of innovative housing as described in this section.

(a) The housing shall be cooperative or rental multifamily housing which is designed to provide long-term affordability and which is either owned and operated on a nonprofit cooperative basis by the residents, or owned by a limited-dividend entity and operated by a residents association.

(b) Occupancy shall be restricted to persons and families of low and moderate income as defined in section 462A.03, subdivision 10; provided that the agency shall give priority to proposals that will provide housing to persons and families whose income is 50 percent or less of the statewide median family income, as estimated by the United States department of housing and urban development.

(c) A democratic residents association shall have substantial control over the operation and management of the housing and over the filling of housing unit vacancies.

(d) A training and education program shall be developed by the loan recipient and made available to residents to help them organize and operate the residents association, understand their legal rights and financial interests regarding the property, and manage and maintain the property. The agency shall ensure that a training and education program has been developed prior to approving any loan under this section.

Subd. 19. It may make no interest loans of up to \$4,000 to persons and families of low and moderate income who are veterans or veterans' dependents to assist in making down payments to enable them to purchase new or existing housing to be used as their principal place of residence. To be eligible, the veterans or veteran's dependent must be a first time home owner, and must enter into an agreement with the agency, with appropriate security as determined by the agency, to repay the loan amount in full when the property is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence. For the purpose of this subdivision, "veteran" means a person residing in Minnesota who has been separated under honorable conditions from any branch of the armed forces of the United States after having served on active duty for 181 consecutive days or by reason of disability incurred while serving on active duty, and who served at any

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time during the period from August 5, 1964 to May 7, 1975; and "veteran's dependent" means a person residing in Minnesota who is the unmarried surviving spouse of a veteran.

Subd. 20. The agency may make grants solely to nonprofit sponsors, as defined by the agency, for residential housing to be used to provide temporary housing to low and moderate income persons and families having an immediate need for temporary housing as a result of natural disaster, resettlement, condemnation, displacement, lack of habitable housing or other cause defined by the agency. Grants pursuant to this subdivision shall not be used for residential care facilities or for facilities that provide housing available for occupancy on less than a 24-hour continuous basis. To the extent possible, a nonprofit sponsor shall combine the grant with other funds obtained from public and private sources. In making grants, the agency shall determine the circumstances under which and the terms and conditions under which all or any portion thereof will be repaid and the appropriate security should repayment be required.

Subd. 21. The agency may make or purchase loans to owners of rental property that is occupied or intended for occupancy primarily by low and moderate income tenants and which does not comply with the standards established in section 116J.27, subdivision 3, for the purpose of energy improvements necessary to bring the property into compliance with these standards. For property which meets the other requirements of this subdivision and, in addition, is at least 15 years old, a loan may also be used for moderate rehabilitation of the property. The authority granted in this subdivision is in addition to and not in limitation of any other authority granted to the agency in this chapter. The limitations on eligible mortgagors contained in section 462A.03, subdivision 13, do not apply to loans under this subdivision.

Subd. 22. It may make or participate in the making and enter into commitments for the making of loans to any banking institution, savings and loan association, or other lender approved by the members, organized under the laws of this or any other state or of the United States having an office in this state, notwithstanding the provisions of section 462A.03, subdivision 13, if it first determines that the proceeds of such loans will be utilized for the purpose of making loans to or for the benefit of eligible persons and families as provided and in accordance with sections 462A.01 to 462A.24. Loans pursuant to this subdivision shall be secured, repaid and bear interest at the rate as determined by the members.

Subd. 23. The agency may participate in loans or establish a fund to insure loans, or portions of loans, that are made by any banking institution, savings and loan association, or other lender approved by the agency, organized under the laws of this or any other state or of the United States having an office in this state, to owners of renter occupied homes or apartments that do not comply with standards set forth in section 116J.27, subdivision 3, without limitations relating to the maximum incomes of the owners or tenants. The proceeds of the insured portion of the loan must be used to pay the costs of improvements, including all related structural and other improvements, that will reduce energy consumption.

**History:** 1971 c 702 s 5; 1973 c 515 s 11-19; 1974 c 441 s 8-10; 1976 c 254 s 3-6; 1977 c 401 s 4-8; 1979 c 50 s 60; 1979 c 327 s 1-3; 1980 c 579 s 20; 1980 c 593 s 1-3; 1980 c 614 s 149; 1981 c 306 s 5-8; 1981 c 356 s 238,248; 1982 c 424 s 130; 1983 c 185 s 2-6; 1983 c 289 s 115 subd 1; 1983 c 301 s 204-206; 1984 c 654 art 2 s 128

## 462A.06 GENERAL POWERS OF THE AGENCY.

Subdivision 1. For the purpose of exercising the specific powers granted in section 462A.05 and effectuating the other purposes of sections 462A.01 to 462A.24, the agency shall have the general powers granted in this section.

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Subd. 2. It may sue and be sued.

Subd. 3. It may have a seal and alter the same at will.

Subd. 4. It may make, and from time to time, amend and repeal rules and regulations not inconsistent with the provisions of sections 462A.01 to 462A.24.

Subd. 5. It may acquire, hold and dispose of personal property for its corporate purposes.

Subd. 6. It may enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization.

Subd. 7. It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the agency has an interest and may sell, transfer and convey any such property to a buyer and, in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, may lease such property to a tenant.

Subd. 8. It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan, including a certificate evidencing an interest in one or more loans. The agency may, in connection with such a sale, retain the right or obligation to collect the principal and interest on the loan, to enter into commitments for timely remittance of the principal and interest, or to provide any other services as described in the certificate.

Subd. 9. It may procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable.

Subd. 10. It may consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the agency is a party.

Subd. 11. It may make and publish rules pursuant to chapter 14 respecting its mortgage lending, construction lending, rehabilitation lending, grants, and temporary lending, and any such other rules and regulations as are necessary to effectuate its corporate purpose, and may adopt emergency rules to implement demonstration programs for the financing of residential housing.

Subd. 12. It may borrow money to carry out and effectuate its corporate purpose and may issue its negotiable bonds or notes as evidence of any such borrowing in accordance with sections 462A.08 to 462A.17.

Subd. 13. [Repealed, 1973 c 515 s 40]

Subd. 14. [Repealed, 1973 c 515 s 40]

Subd. 15. [Repealed, 1973 c 515 s 40]

Subd. 16. [Repealed, 1973 c 515 s 40]

**History:** 1971 c 702 s 6; 1973 c 35 s 75; 1973 c 515 s 20,21; 1974 c 441 s 11; 1980 c 593 s 4; 1982 c 424 s 130; 1983 c 185 s 7; 1984 c 640 s 32

## 462A.065 FINANCIAL INFORMATION.

Financial information, including but not limited to credit reports, financial statements and net worth calculations, received or prepared by the agency regarding any agency loan or grant and the name of each individual who is the recipient of an agency grant are private data on individuals, pursuant to section 13.02, subdivision 12.

**History:** 1977 c 401 s 9; 1981 c 311 s 39; 1982 c 545 s 24

**462A.07 ADDITIONAL POWERS AND DUTIES OF THE AGENCY.**

Subdivision 1. In addition to the powers granted in sections 462A.05 and 462A.06 the agency shall have the further powers granted in this section.

Subd. 2. It may provide general technical services to assist in the planning, processing, design, construction or rehabilitation, and inspection of residential housing for occupancy by persons and families of low and moderate income.

Subd. 3. It may provide general consultative project assistance services for residential housing for occupancy by persons and families of low and moderate income and for the residents thereof with respect to management, training and social services, homeownership counseling and continuing technical home maintenance services.

Subd. 3a. It shall make available technical assistance to potential applicants to encourage applications for multifamily housing projects which afford residents participation in the ownership or management of the project.

Subd. 4. It may promote research and development in scientific methods of constructing low cost residential housing of high durability.

Subd. 5. It may enter into agreements with sponsors, mortgagors, or the issuers of securities for the purpose of regulating the planning, development, and management of housing projects financed in whole or in part by the proceeds of eligible loans or eligible securities purchased by the agency.

Subd. 5a. It may enter into agreements with housing and redevelopment authorities or other appropriate local governmental units to foster multifamily housing rehabilitation and shall act to develop the agreements. It may give advance reservations of mortgage financing and federal rent subsidies as part of the agreements, with the understanding that the agency will only approve the mortgage loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in a program of multifamily housing rehabilitation. The agreements may include the United States department of housing and urban development when desirable and appropriate.

Subd. 6. It may undertake and carry out studies and analyses of housing needs within the state and ways of meeting such needs including data with respect to population and family and size; and the distribution thereof according to income groups, the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting housing needs and the meeting thereof; and may make the results of such studies and analyses available to the public and the housing and supply industries, and may engage in research and disseminate information on housing.

Subd. 7. It may survey and investigate the housing conditions and needs, both urban and rural, throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any existing housing shortage in the state.

Subd. 8. It may assist the commissioner of administration in the development, implementation and revision of a uniform state building code.

Subd. 9. It may establish such rules and regulations as may be necessary to insure that priority for assistance by the agency will be given to projects located in municipal jurisdictions or counties, which have adopted the uniform state building code.

Subd. 9a. In the exercise of the powers granted to it under this chapter, it shall promulgate rules as may be necessary to encourage counties and municipalities to promote the economical construction of housing units for persons and families of low and moderate income.

Subd. 10. It may establish and enforce such rules as may be necessary to insure compliance with chapter 363, and to insure that occupancy of housing assisted under sections 462A.01 to 462A.24 shall be open to all persons, and that contractors and subcontractors engaged in the construction of such housing shall provide an equal opportunity for employment to all persons, without discrimination as to race, color, creed, religion, national origin, sex, marital status, age, and status with regard to public assistance or disability.

Subd. 11. It may establish cooperative relationships with such regional county and multi-county housing authorities as may be established, including the metropolitan council, and may develop priorities for the utilization of agency resources and assistance within a region in cooperation with regional county and multi-county housing authorities.

Subd. 12. It may delegate, use or employ any federal, state, regional or local public or private agency or organization, including organizations of physically handicapped persons, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in sections 462A.01 to 462A.24 and to carry out the objectives of sections 462A.01 to 462A.24 and may pay for the services from the housing development fund.

Subd. 13. It may engage or assist in the development and operation of low income housing if the federal government provides assistance in connection with the housing and the development and operation is in conformity with the applicable provisions of federal laws and regulations. The agency shall determine whether the applicable federal laws governing use of such funds permit a portion thereof to be used for residential housing for American Indians within the state.

Subd. 14. It may engage in housing programs for low and moderate income American Indians, as that term is defined in section 254A.02, subdivision 11, developed and administered separately or in combination by the Minnesota Chippewa tribe, the Red Lake band of Chippewa Indians, and the Sioux communities as determined by such tribe, band, or communities. In developing such housing programs the tribe, band, or communities shall take into account the housing needs of all American Indians residing both on and off reservations within the state. A plan for each such program, which specifically describes the program (a) content, (b) utilization of funds, (c) administration, (d) operation, (e) implementation and other matter, as determined by the agency, must be submitted to the agency for its review and approval prior to the making of eligible loans pursuant to section 462A.21. All such programs must conform to rules promulgated by the agency concerning program administration, including but not limited to rules concerning costs of administration; the quality of housing; interest rates, fees and charges in connection with making eligible loans; and other matters determined by the agency to be necessary in order to effectuate the purposes of this subdivision and section 462A.21, subdivisions 4b and 4c. All such programs must provide for a reasonable balance in the distribution of funds appropriated for the purpose of this section between American Indians residing on and off reservations within the state. Nothing in this section shall preclude such tribe, band, or communities from requesting and receiving cooperation, advice, and assistance from the agency as regards program development, operation, delivery, financing, or administration. As a condition to the making of such eligible loans, the Minnesota Chippewa tribe, the Red Lake band of Chippewa Indians and the Sioux communities shall:

(a) enter into a loan agreement and other contractual arrangements with the agency for the purpose of transferring the allocated portion of loan funds as set forth in section 462A.26 and to insure compliance with the provisions of this section and this chapter, and

(b) shall agree that all of their official books and records related to such housing programs shall be subjected to audit by the legislative auditor in the manner prescribed for agencies of state government.

The agency shall submit a biennial report concerning the various housing programs for American Indians, and related receipts and expenditures as provided in section 462A.22, subdivision 9, and such tribe, band, or communities to the extent that they administer such programs, shall be responsible for any costs and expenses related to such administration provided, however, they shall be eligible for payment for costs, expenses and services pursuant to section 462A.07, subdivision 12, and section 462A.21. The agency may provide or cause to be provided essential general technical services as set forth in section 462A.07, subdivision 2, and general consultative project assistance services, including, but not limited to, management training, and home ownership counseling as set forth in section 462A.07, subdivision 3. Rules promulgated under this subdivision may be promulgated as emergency rules under chapter 14.

Subd. 15. It may engage in housing programs for low and moderate income American Indians as that term is defined in section 254A.02, subdivision 11, residing in the metropolitan area defined in section 473.121, subdivision 2, and cities with a population greater than 50,000 persons. The programs shall demonstrate innovative methods of providing housing for urban Indians, may involve the construction, purchase, and rehabilitation of residential housing, and may be administered through any other provision of this chapter. To the extent possible, the programs shall combine appropriated money with other money from both public and private sources, except that interest earned on the portion of an appropriation to be expended for Indian housing programs in the city of Duluth does not have to be combined with money from other sources. Effective June 30, 1985, all money allocated by the agency under this subdivision to programs for urban Indian housing that are not subject to active contracts shall be reallocated by the agency to programs to fulfill the purposes of this subdivision. The agency shall consult with the advisory council on urban Indians created pursuant to section 3.922, subdivision 8, in the development of programs pursuant to this subdivision.

Subd. 16. It may establish cooperative relationships with municipal housing and redevelopment authorities and municipalities to develop priorities for the use of agency resources and assistance within municipalities, and to consider municipal housing plans and programs in the process of setting the priorities.

**History:** 1971 c 702 s 7; 1973 c 515 s 22; 1974 c 441 s 12-16; 1976 c 254 s 7-9; 1977 c 401 s 10-12; 1978 c 670 s 1; 1979 c 243 s 7-9; 1979 c 327 s 5; 1981 c 306 s 9; 1982 c 424 s 130; 1983 c 201 s 1; 1984 c 654 art 2 s 130

#### **462A.072 PROVISION OF FINANCIAL EXPERTISE TO OTHER AGENCIES.**

Upon request of the commissioner of energy and economic development, the director shall provide financial management assistance to the energy and economic development authority. Reimbursement for these services shall be at a reasonable rate established by negotiation between the director and the commissioner of energy and economic development.

**History:** 1983 c 289 s 115 subd 1,116; 1983 c 301 s 207

#### **462A.08 BONDS AND NOTES; PURPOSES, TERMS, APPROVAL.**

Subdivision 1. The agency from time to time may issue its negotiable bonds and notes in such principal amount as, in the opinion of the agency, shall be necessary to provide sufficient funds for achieving its purposes, including the making



of eligible loans and the purchase of eligible securities, the payment of interest on bonds and notes of the agency, the establishment of reserves to secure such bonds and notes, and the payment of all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers.

Subd. 2. The agency from time to time may issue bonds or notes for the purpose of refunding any bonds or notes of the agency then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds or notes. The proceeds of any such refunding bonds or notes may, in the discretion of the agency, be applied to the purchase or payment at maturity of the bonds or notes to be refunded, or to the redemption of such outstanding bonds or notes on the redemption date next succeeding the date of delivery of such refunding bonds or notes and may, pending such application, be placed in escrow to be applied to such purchase, retirement, or redemption. Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality thereof, or in certificates of deposit or time deposits secured in such manner as the agency shall determine, maturing at such time or times as shall be appropriate to assure the prompt payment of the principal of and interest and redemption premiums, if any, on the bonds or notes to be refunded. The income earned or realized on any such investment may also be applied to the payment of the bonds or notes to be refunded. After the terms of the escrow have been fully satisfied, any balance of such proceeds and investment income may be returned to the agency for use by it in any lawful manner. All refunding bonds or notes issued under the provisions of this subdivision shall be issued and secured in the manner provided by resolution of the agency.

Subd. 3. All notes or bonds issued hereunder shall be negotiable investment securities within the meaning and for all purposes of the uniform commercial code, subject only to any provisions of the bonds and notes for registration. All notes and bonds so issued shall be general obligations of the agency, secured by its full faith and credit, and payable out of any moneys, assets, or revenues of the agency, subject to the provisions of resolutions or indentures pledging and appropriating particular moneys, assets, or revenues to particular notes or bonds.

*History: 1971 c 702 s 8; 1973 c 515 s 23-25; 1974 c 441 s 17*

#### **462A.09 BONDS AND NOTES; RESOLUTIONS AUTHORIZING, ADDITIONAL TERMS, SALE.**

The notes and bonds of the agency shall be authorized by a resolution or resolutions adopted by the agency, shall bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places within or without the state, and be subject to such terms of redemption prior to maturity as such resolutions or certificates may provide. If, for any reason, whether existing at the date of issue of any bonds or notes or at the date of making or purchasing any loan or securities from the proceeds or thereafter, the interest on any bonds or notes shall be or become subject to federal income taxation, this shall not impair or affect the validity or the provisions made for the security of the bonds or notes. The agency may make such covenants and take or cause to be taken such actions as are in its judgment necessary or desirable to comply with conditions established by federal law or regulations for the exemption of interest on its obligations. The agency may refrain from compliance with such conditions if in its judgment this would serve the purposes and policies set forth in this chapter with respect to any particular issue of bonds or notes, unless this would violate covenants

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made by the agency. No note shall mature more than ten years from its date or from the date of any note refunded thereby. The maximum maturity of any bond, whether or not issued for the purpose of refunding, shall be 50 years from its date. The notes and bonds of the agency may be sold at public or private sale, at such price or prices as the agency shall determine; provided that (i) the aggregate price at which an issue of notes or bonds is initially offered by underwriters to investors, as set forth in the agency's official statement with respect to the offering, shall not exceed by more than three percent the aggregate price paid by the underwriters to the agency at the time of delivery; (ii) the commission paid by the agency to an underwriter or agent for placing an issue of notes or bonds with investors shall not exceed three percent of the aggregate price at which the issue is offered to investors as set forth in the agency's offering statement; and (iii) the spread or commission shall be an amount determined by the agency to be reasonable in the light of the risk assumed and the expenses of issuance, if any, required to be paid by the underwriters or agent.

*History: 1971 c 702 s 9; 1973 c 515 s 26; 1977 c 401 s 13; 1979 c 327 s 6; 1980 c 607 art 14 s 45 subd 1; 1983 c 185 s 8*

## 462A.10 BONDS AND NOTES; OPTIONAL RESOLUTION AND CONTRACT PROVISIONS.

Subdivision 1. Any resolution authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to the matters referred to in this section.

Subd. 2. It may pledge or create a lien on all or any part of the moneys or property of the agency and any moneys held in trust or otherwise by others to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist.

Subd. 3. It may provide for the custody, collection, securing, investment, and payment of any moneys of the agency.

Subd. 4. It may set aside reserves or sinking funds and provide for the regulation and disposition thereof and may create other special funds into which any moneys of the agency may be deposited.

Subd. 5. It may limit the loans and securities to which the proceeds of sale of notes or bonds may be applied and may pledge repayments thereon to secure the payment of the notes or bonds or of any issue thereof.

Subd. 6. It may limit the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds.

Subd. 7. It may prescribe the procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent thereto, and the manner in which such consent may be given.

Subd. 8. It may vest in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine, which may include any or all of the rights, powers and duties of the bondholders, or may limit the rights, powers and duties of such trustee.

Subd. 9. It may define the acts or omissions to act which shall constitute a default in the obligations and duties of the agency and may provide for the rights and remedies of the holders of bonds or notes in the event of such default, and provide any other matters of like or different character, consistent with the general

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laws of the state and other provisions of this chapter, which in any way affect the security or protection of the notes or bonds and the rights of the holders thereof.

**History:** 1971 c 702 s 10; 1973 c 515 s 27-31

## **462A.11 PLEDGES.**

Any pledge made by the agency shall be valid and binding from the time when the pledge is made, the moneys or property so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

**History:** 1971 c 702 s 11

## **462A.12 BONDS AND NOTES; NONLIABILITY OF INDIVIDUALS.**

Neither the members of the agency nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**History:** 1971 c 702 s 12

## **462A.13 BONDS AND NOTES; PURCHASE AND CANCELLATION BY AGENCY.**

The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, or (b) if the notes or bonds are not redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

**History:** 1971 c 702 s 13

## **462A.14 BONDS AND NOTES; NONLIABILITY OF STATE.**

The state of Minnesota shall not be liable on notes or bonds of the agency and such notes and bonds shall not be a debt of the state. The notes and bonds shall contain on the face thereof, a statement to such effect.

**History:** 1971 c 702 s 14

## **462A.15 STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.**

The state pledges and agrees with the holders of any notes or bonds issued under sections 462A.01 to 462A.24, that the state will not limit or alter the rights vested in the agency to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of the holders until the notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is

authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

**History:** 1971 c 702 s 15

#### **462A.16 DEFAULT IN PAYMENTS; APPOINTMENT OF TRUSTEE.**

If the agency defaults in the payment of principal or interest on any issue of notes or bonds after the same shall become due, whether at maturity or upon call for redemption, and such default continues for a period of 30 days, or if the agency fails or refuses to comply with the provisions of this chapter, or defaults in any agreement made with the holders of any issue of notes or bonds, the holders of 25 percent in aggregate principal amount of the notes or bonds of such issue then outstanding may appoint a trustee to represent the holders of such notes or bonds for the purposes set forth in section 462A.17, unless the notes or bonds are issued under an indenture made and entered into by the agency with a designated trustee.

**History:** 1971 c 702 s 16; 1973 c 515 s 32

#### **462A.17 POWERS AND DUTIES OF TRUSTEE.**

Subdivision 1. The trustee designated in any indenture or resolution securing an issue of notes or bonds, or a trustee appointed pursuant to section 462A.16, may, and upon written request of the holders of 25 percent in principal amount of such notes or bonds then outstanding shall, in his own name, subject to the provisions of such indenture or resolution:

(a) Enforce all rights of the noteholders or bondholders, including the right to require the agency to collect fees and charges and interest and payments on eligible loans and mortgages made and eligible securities purchased by it adequate to carry out any agreement as to, or pledge of, such fees and charges and payments and to require the agency to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this chapter;

(b) Bring suit upon such notes or bonds;

(c) Require the agency to account as if it were the trustee of any express trust for the holders of such notes or bonds;

(d) Enjoin any acts or things which may be unlawful or in violation of the rights of holders of such notes or bonds; or

(e) Declare all such notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 25 percent of the principal amount of such notes or bonds then outstanding, the trustee may annul such declaration and consequences.

Subd. 2. In addition to the powers specifically granted herein, the trustee shall have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

Subd. 3. The venue of any action or proceedings brought by the trustees under sections 462A.01 to 462A.24, shall be in Ramsey county. Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days notice in writing to the governor, to the agency and to the state treasurer.

**History:** 1971 c 702 s 17; 1973 c 35 s 76; 1973 c 501 s 16; 1973 c 515 s 33

#### **462A.18 MONEYS OF AGENCY.**

Subdivision 1. **Functions of state treasurer.** All moneys of the agency, except as otherwise authorized or provided in this section, shall be paid to the state

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treasurer as agent of the agency, who shall not commingle such moneys with any other moneys. The moneys in such accounts shall be paid out on warrants drawn by the commissioner of finance on requisition of the chairman of the agency or of such other officer or employee as the agency shall authorize to make such requisition. All deposits of such moneys shall, if required by the state treasurer or the agency, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

**Subd. 2. Contracts and security.** Notwithstanding the provisions of this section, the agency shall have power, subject to the approval of the state treasurer, to contract with the holders of any of its notes or bonds, as to the custody, collection, securing, investment, and payment of any moneys of the agency, or any moneys held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits. All moneys so paid to the state treasurer as agent of the agency, from whatever source, are appropriated to the agency.

**Subd. 3. System of accounts.** Subject to agreements with noteholders and bondholders, the commissioner of finance shall prescribe a system of accounts.

*History: 1971 c 702 s 18; 1973 c 492 s 14; 1973 c 515 s 34*

## **462A.19 EXEMPTION FROM TAXES.**

Subdivision 1. The property of the agency and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions.

Subd. 2. [Repealed, 1983 c 213 s 25]

*History: 1971 c 702 s 19; 1983 c 213 s 19*

## **462A.20 HOUSING DEVELOPMENT FUND; CREATION, SOURCES.**

Subdivision 1. There is created and established under the jurisdiction and control of the agency a revolving fund to be known as the "housing development fund."

Subd. 2. There shall be paid into the housing development fund:

(a) Any moneys appropriated and made available by the state for the purposes of the fund;

(b) Any moneys which the agency receives in repayment of advances made from the fund;

(c) Any other moneys which may be made available to the agency for the purpose of the fund from any other source or sources;

(d) All fees and charges collected by the agency;

(e) All interest or other income not required by the provisions of a resolution or indenture securing notes or bonds to be paid into another special fund; but the agency shall not expend money for its cost of general administration of agency programs in any fiscal year in excess of such limit for such fiscal year as may be established by law. "Cost of general administration of agency programs" does not include debt service, amortization of deferred financing costs, loan origination costs, professional and other contractual services, any deposit or expenditure required to be made by the provisions of a bond or note resolution or indenture, or any deposit or expenditure made to preserve the security for the bonds or notes.

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Subd. 3. Whenever any moneys are appropriated by the state to the agency solely for a specified purpose or purposes, the agency shall establish a separate bookkeeping account or accounts in the housing development fund to record the receipt and disbursement of such moneys and of the income, gain, and loss from the investment and reinvestment thereof. The agency may transfer unencumbered balances from one appropriated account to another, provided that (1) no moneys appropriated for the purpose of agency loan programs may be transferred to an account to be used for making grants, and (2) moneys appropriated for the purpose of section 462A.21, subdivisions 4a, 4f, and 4g, may only be transferred for the purpose of section 462A.21, subdivision 4i.

**History:** 1971 c 702 s 20; 1973 c 515 s 35; 1974 c 441 s 18; 1977 c 401 s 14; 1981 c 306 s 10

## **462A.21 HOUSING DEVELOPMENT FUND; ADVANCES, USE REPAYMENT.**

Subdivision 1. The agency may use the moneys held in the housing development fund for the purposes provided in this section.

Subd. 2. It may make temporary loans to "nonprofit" sponsors to defray development costs, as provided by section 462A.05, subdivision 5. Each such loan shall be repaid in full by the borrower to the agency concurrent with the initial endorsement of such borrower's eligible construction loan, unless the authority extends the period for the repayment of the advances. In no event shall the time of repayment be extended later than the date of the final endorsement of the eligible mortgage loan. If no permanent financing is obtained the loan shall be repaid in accordance with such terms and conditions as the agency has prescribed by rule.

Subd. 3. It may make planning grants to local communities, pursuant to rules promulgated by the agency, in such amounts as the agency determines, not to exceed the net costs, exclusive of any federal or other aid or assistance, as are incurred by the local community in planning for land and building acquisition, improvements, renewal, relocation or conservation. Such grants shall be limited to planning for specific sites upon which housing is, or is to be, situated and sites designated for other uses that are reasonably related to such housing.

Subd. 4. It may pay all costs and expenses of financing not paid out of a special fund created by a resolution or indenture securing notes or bonds.

Subd. 4a. It may make rehabilitation grants and expenditures for correction of residential housing defects as provided in section 462A.05, subdivisions 15 and 16. In order to insure the preservation of the maximum number of housing units with the money appropriated by the legislature, grants shall be recovered by the agency to the extent provided in this section to be used for future grants. Grants made under the terms of this subdivision shall contain a requirement that the grant be recovered by the agency in accordance with the following schedule:

(1) If the property is sold, transferred, or otherwise conveyed within the first three years after the date of a grant, the recipient shall repay the full amount of the grant;

(2) If the property is sold, transferred, or otherwise conveyed within the fourth year after the date of a grant, the recipient shall repay 75 percent of the amount of the grant;

(3) If the property is sold, transferred, or otherwise conveyed within the fifth year after the date of a grant, the recipient shall repay 50 percent of the amount of the grant;

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(4) If the property is sold, transferred, or otherwise conveyed within the sixth year after the date of a grant, the recipient shall repay 25 percent of the amount of the grant;

(5) If the property is sold, transferred, or otherwise conveyed within the seventh year after the date of the grant, or thereafter, there is no repayment requirement; provided that no repayment is required to the extent that the grants are made to improve the accessibility of residential housing to a handicapped occupant.

Subd. 4b. It may establish loan funds and may make eligible loans from them, at rates of interest and with security as the agency deems advisable, if each loan is determined by the agency to be necessary to permit the occupant of residential housing financed wholly or in part by the loan to meet his housing costs without expending an unreasonable portion of his income on them. It may combine loan funds established pursuant to legislative appropriations with loan funds established for the same or similar purposes pursuant to the sale of its notes or bonds, and such combined funds may be deposited with a trustee. Portions of these funds derived from appropriations or the sale of its notes or bonds may be set aside as reserves against losses on loans to be made from the combined funds. Each combined fund, including loan and investment principal and income received therefrom, shall be administered, disbursed, and collected as provided in the appropriation act and the resolution or indenture securing the bonds or notes.

Subd. 4c. It may establish a revolving loan fund and may make eligible loans, pursuant to subdivision 4b, to low and moderate income American Indians as provided in section 462A.07, subdivision 14 and may pay the costs and expenses necessary and incidental to the development and operation of such programs.

Subd. 4d. It may expend moneys for the purpose of section 462A.07, subdivision 15, including the establishment of revolving loan funds for programs for urban American Indians, and may pay the costs and expenses necessary and incidental to the development and operation of the programs.

Subd. 4e. It may expend money for the purpose of section 462A.05, subdivision 2a, and pay the costs and expenses necessary and incidental to the development and operation of the grant program authorized therein.

Subd. 4f. It may make grants for the purpose of section 462A.05, subdivision 15a and may pay the costs and expenses necessary and incidental to the development and operation of the housing accessibility program.

Subd. 4g. It may make emergency energy conservation grants as provided in section 462A.05, subdivision 15b and may pay the costs and expenses necessary and incidental to the development of the emergency energy conservation grant program.

Subd. 4h. It may create a revolving fund to be used to make loans for the purpose of section 462A.05, subdivision 19, and pay the costs and expenses necessary and incidental to the development and operation of the loan program authorized therein.

Subd. 4i. It may establish a revolving loan fund for the purpose of section 462A.05, subdivision 14a and may pay the costs and expenses necessary and incidental to the development and operation of the loan program authorized therein.

Subd. 4j. It may expend money for the purposes of section 462A.05, subdivision 23, and may pay the costs and expenses for the development and operation of the program.

Subd. 5. It may expend moneys in the fund, not otherwise appropriated, for such other agency purposes as previously enumerated in sections 462A.01 to 462A.24 as the agency in its discretion shall determine and provide.

Subd. 6. Notwithstanding the provisions of subdivision 5, the agency shall not expend moneys in the fund for the purpose of making rehabilitation or accessibility grants except by specific appropriation by the legislature.

Subd. 7. The agency may make loans to low and moderate income persons who own existing residential housing for the purpose of improving the efficient energy utilization of the housing. Permitted improvements shall include installation or upgrading of ceiling, wall, floor and duct insulation, storm windows and doors, and caulking and weatherstripping. The improvements shall not be inconsistent with the energy standards as promulgated as part of the state building code; provided that the improvements need not bring the housing into full compliance with the energy standards. Any loan for such purpose shall be made only upon determination by the agency that such loan is not otherwise available, wholly or in part, from private lenders upon equivalent terms and conditions. The agency may promulgate rules as necessary to implement and make specific the provisions of this subdivision. The rules shall be designed to permit the state, to the extent not inconsistent with this chapter, to seek federal grants or loans for energy purposes.

Subd. 8. It may establish a home ownership assistance fund, on terms and conditions it deems advisable, to assist persons and families of low and moderate income in the purchase of affordable residential housing and may use the funds to provide additional security for eligible loans or to pay costs associated with or provide additional security for bonds issued by the agency.

Subd. 8a. It may establish a multifamily development assistance fund, on terms and conditions it deems advisable, to be used in connection with the financing of multifamily developments (a) to make loans, with or without interest, pursuant to section 462A.05, subdivisions 1 and 3, or (b) to make payments into accounts of the agency for the purpose of making payments required by a resolution for the issuance of its notes or bonds, as permitted by section 462A.10, subdivision 4.

Subd. 9. It may make loans to encourage innovations in the development or rehabilitation of single or multifamily residential housing pursuant to section 462A.05, subdivision 18. Loans pursuant to this subdivision shall only be made with money appropriated directly by the legislature specifically for this purpose.

Subd. 9a. It may create a revolving fund to be used to make loans to encourage innovative multifamily housing pursuant to section 462A.05, subdivision 18a.

Subd. 10. Notwithstanding the repeal of section 462A.26 and the provisions of section 16A.28 or any other law relating to lapse of an appropriation, the appropriations made to the agency by the legislature in 1976 and subsequent years are available until fully expended, and the allocations provided in the appropriations remain in effect. Earnings from investments of any of the amounts appropriated to the agency are appropriated to the agency to be used for the same purposes as the respective original appropriations.

Subd. 11. [Repealed, 1981 c 306 s 20]

Subd. 12. It may make grants for the purpose of section 462A.05, subdivision 20, and may pay the costs and expenses necessary and incidental to the grant program authorized therein. Grants pursuant to section 462A.05, subdivision 20 may be made only with specific appropriations by the legislature.

**History:** 1971 c 702 s 21; 1973 c 515 s 36-38; 1974 c 441 s 19-25; 1976 c 254 s 10-12; 1977 c 401 s 15-19; 1978 c 670 s 2; 1979 c 50 s 61; 1979 c 243 s 10,11; 1979 c 327 s 4,7-9; 1980 c 579 s 21; 1980 c 593 s 5,6; 1980 c 614 s 150; 1981 c 306 s 11,12; 1983 c 185 s 9,10; 1983 c 301 s 208,209



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## 462A.22 BOND FUND.

Subdivision 1. The aggregate principal amount of bonds and notes which are outstanding at any time, excluding the principal amount of any bonds and notes refunded by the issuance of new bonds or notes, shall not exceed the sum of \$1,550,000,000.

Subd. 1a. [Repealed, 1983 c 185 s 15]

Subd. 2. Subdivision 1 is not a contract with the holders of any bonds or notes excluding the issuance of bonds or notes in excess of said maximum amount, if such maximum shall be increased by law.

Subd. 3. The agency may create and establish a special fund or funds for the security of one or more or all series of its bonds or notes, which funds shall be known as debt service reserve funds. The agency may pay into each debt service reserve fund (a) any moneys appropriated by the state only for the purposes of such fund, (b) any proceeds of sale of bonds or notes to the extent provided in the resolution or indenture authorizing the issuance thereof, (c) any funds directed to be transferred by the agency to such debt service reserve fund, and (d) any other moneys made available to the agency only for the purpose of such fund from any other source or sources.

Subd. 4. The moneys held in or credited to each debt service reserve fund, except as provided in this section, shall be used solely for the payment of the principal of bonds or notes of the agency as the same mature, the purchase of such bonds or notes, the payment of interest thereon, or the payment of any premium required when such bonds or notes are redeemed before maturity; provided, that moneys in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the fund to less than the amount which the agency shall determine to be reasonably necessary for the purposes of the fund, except for the purpose of paying principal or interest due on bonds or notes secured by the fund, for the payment of which other moneys of the agency are not available.

Subd. 5. Moneys in any debt service reserve fund not required for immediate use or disbursement may be invested in accordance with the provisions of section 462A.18, subdivision 2.

Subd. 6. If the agency shall create and establish a debt service reserve fund for the security of any series of bonds or notes, it shall not issue any additional bonds or notes which are similarly secured if the amount of any of the debt service reserve funds at the time of such issuance does not equal or exceed the minimum amount, if any, required by the resolution creating such fund, unless the agency shall deposit in each such fund at the time of such issuance, from the proceeds of the bonds or notes or otherwise, an amount which, together with the amount then in the fund, will be not less than the minimum amount so required.

Subd. 7. To the extent consistent with the resolutions and indentures securing outstanding bonds and notes, the agency may at the close of any fiscal year transfer to any other fund or account from any debt service reserve fund, any excess in that fund over the amount deemed by the agency to be reasonably necessary for the purpose of the fund.

Subd. 8. In order to assure the payment of the principal of and interest on bonds and notes of the agency and the continued maintenance of all debt service reserve funds created and established therefor, the agency shall annually determine and certify to the governor, on or before December 1, (a) the amount, if any, then needed to restore each debt service reserve fund to the minimum amount required by the resolution or indenture establishing the fund, not exceeding the maximum amount of principal and interest to become due and payable in any subsequent year on all bonds or notes which are then outstanding and secured by such fund; and (b)

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the amount, if any, determined by the agency to be needed in the then immediately ensuing fiscal year, with other funds pledged and estimated to be received during that year, for the payment of the principal and interest due and payable in that year on all then outstanding bonds and notes secured by a debt service reserve fund the amount of which is then less than the minimum amount agreed. The governor shall include and submit to the legislature, in the budget for the following fiscal year, or in a supplemental budget if the regular budget for that year has previously been approved, the amounts certified to him by the agency in accordance with this subdivision.

Subd. 9. The agency shall also submit a biennial report of its activities, projected activities, receipts, and expenditures for the next biennium, to the governor and the legislature on or before January 15 in each odd-numbered year. The report shall include the distribution of money under each agency program by county, except for counties containing a city of the first class, where the distribution shall be reported by municipality.

In addition, the report shall include the cost to the agency of the issuance of its bonds for each issue in the biennium, along with comparable information for other state housing finance agencies.

Subd. 10. All of the books and records of the agency shall be subject to audit by the legislative auditor in the manner prescribed for other agencies of state government. The agency is authorized also to employ and to contract in its resolutions and indentures for the employment of public accountants for the audit of books and records pertaining to any fund or funds. The legislative auditor shall review contracts with public accountants as provided in section 3.972.

**History:** 1971 c 702 s 22; 1973 c 492 s 14; 1973 c 515 s 39; 1974 c 441 s 26; 1976 c 254 s 13; 1977 c 347 s 60; 1977 c 401 s 20-22; 1979 c 327 s 10-12; 1980 c 509 s 169; 1981 c 306 s 13; 1983 c 185 s 11,12; 1983 c 317 s 3

**462A.23** [Repealed, 1973 c 515 s 40]

## **462A.235 COMMISSIONER OF COMMERCE; DUTIES.**

The commissioner of commerce shall strongly encourage all financial institutions organized under chapter 47 to cooperate with the Minnesota housing finance agency to effectuate the purposes of the Minnesota housing finance agency law of 1971, as amended.

**History:** 1976 c 254 s 14; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92

## **462A.236 RULES.**

The agency may adopt emergency and permanent rules for the efficient administration of section 462A.05, subdivisions 14b, 18a, and 23. The emergency rules need not be adopted in compliance with chapter 14 and are effective for 360 days or until the permanent rules are adopted, whichever occurs first. The emergency rules are effective upon adoption by the agency and shall be published in the State Register as soon thereafter as possible.

**History:** 1983 c 301 s 210; 1984 c 640 s 32

## **462A.24 CONSTRUCTION.**

Sections 462A.01 to 462A.24 are necessary for the welfare of the state of Minnesota and its inhabitants; therefore, it shall be liberally construed to effect its purpose.

**History:** 1971 c 702 s 24

**462A.26** [Repealed, 1977 c 401 s 24]

**462A.27** MS 1983 Supp [Renumbered 462A.236]