

## CHAPTER 474A

## BOND ALLOCATION ACT

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**474A.01 CITATION.**

Sections 474A.01 to 474A.21 may be cited as the "Minnesota bond allocation act."

**History:** 1986 c 465 art 1 s 9

**474A.02 DEFINITIONS.**

Subdivision 1. **Terms defined.** For the purposes of sections 474A.01 to 474A.21, the terms defined in this section shall have the following meanings:

Subd. 2. **Annual volume cap.** "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of existing federal tax law or a federal volume limitation act, may be issued in one year by issuers.

Subd. 3. **Certificate of allocation.** "Certificate of allocation" means a certificate provided to an issuer by the department under section 474A.13.

Subd. 4. **City.** "City" means a statutory or home rule charter city.

Subd. 5. **Commercial redevelopment project.** "Commercial redevelopment project" means a project as defined in section 474.02, if it is not a manufacturing project or pollution control project and one of the following conditions is met:

(a) The project site would qualify as a redevelopment district as defined in section 273.73, subdivision 10. To qualify the project need not be included in a tax increment financing district.

(b) At least 75 percent of the proceeds of the obligations will be used to acquire and rehabilitate or replace an existing structure which is functionally obsolete or contains structural or other defects justifying substantial renovation or clearance.

(c) The project will be undertaken and the obligations issued pursuant to a written program administered by the local issuer and the financing provides for a substantial commitment of local public funds.

(d) At least 90 percent of the proceeds of the obligations will be used to finance facilities with respect to which an urban development action grant has been made under section 119 of the federal Housing and Community Development Act of 1974.

Subd. 6. **Department; department of energy and economic development.** "Department" or "department of energy and economic development" means the department of energy and economic development or its successor agency or agencies with respect to the duties that the department is to perform under sections 474A.01 to 474A.21.

Subd. 7. **Entitlement issuer.** "Entitlement issuer" means an issuer to which an allocation is made under section 474A.04, 474A.08, or 474A.09.

Subd. 8. **Existing federal tax law.** "Existing federal tax law" means those provisions of the Internal Revenue Code of 1954, as amended through December 31, 1985, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is exempt from inclusion in gross income for purposes of federal income taxation.

Subd. 9. **Federal Volume Limitation Act.** "Federal Volume Limitation Act" means Title VII of the bill that was adopted by the United States House of Representatives on December 17, 1985, as H.R. 3838, 99th Congress 1st Session (1985), or any law of the United States that is effective after December 31, 1985, and that:

- (1) imposes an annual volume cap;
- (2) allocates the annual volume cap among various uses for which the proceeds of the obligations may be used or among various issuers of obligations or both; and
- (3) allows the governor during a specified interim period or the state legislature by law to provide for a different allocation of the annual volume cap among uses and among issuers.

Subd. 10. **General obligation.** "General obligation" means any obligation that pledges the full faith and credit of an issuer with general taxing powers, other than a state issuer, to the payment of the obligation.

Subd. 11. **Governmental volume cap.** "Governmental volume cap" means the annual volume cap less the amount, if any, that a federal volume limitation act requires be set aside or reserved, without the right to override by state legislation, for qualified 501(c)(3) bonds or if a federal volume limitation act does not require an amount to be set aside for qualified 501(c)(3) bonds, the amount set aside pursuant to section 474A.12, subdivision 9.

Subd. 12. **Issuer.** "Issuer" means any entitlement issuer or other issuer.

Subd. 13. **Local public funds.** "Local public funds" means the funds of a governmental unit except the following:

- (1) the proceeds of an obligation subject to existing federal tax law or a federal volume limitation act;
- (2) payments or property furnished by a nonexempt person to repay or secure the loan of proceeds of an obligation subject to existing federal tax law or a federal volume limitation act or other payments made in consideration of the issuance of an obligation subject to existing federal tax law or a federal volume limitation act;
- (3) payments furnished by a nonexempt person for its right to use in its trade or business a facility financed with the proceeds of obligations subject to existing federal tax law or a federal volume limitation act;
- (4) tax increments, as defined in section 273.76; or
- (5) tax reductions provided pursuant to sections 273.1312 to 273.1314.

Subd. 14. **Manufacturing project.** "Manufacturing project" means properties, real or personal, used in connection with a revenue producing enterprise in connection with assembling, fabricating, manufacturing, mixing, or processing any products of agriculture, forestry, mining, or manufacture. Properties used for storing, warehousing, or distributing qualify under this definition (1) if they are used as part of or in connection with an assembly, fabricating, manufacturing, mixing, or processing facility, or (2) if they are used for the storing of agricultural products and are located outside of the metropolitan area, as defined in section 473.121, subdivision 2. Manufacturing project includes properties, real or personal, used in connection with research and development activity to develop or improve products, production processes, or materials. For purposes of this subdivision, "a product of manufacture" includes information and directions which dictate the functions to be performed by data processing equipment, commonly called computer software, regardless of whether they are embodied in or recorded on tangible personal property. A project qualifies as a manufacturing project only if 75 percent of the proceeds of the proposed obligations will be used for construction, acquisition, installation, or addition of properties described in this subdivision.

Subd. 15. **Mortgage credit certificate.** "Mortgage credit certificate" means any certificate which satisfies the definition of such term as contained in section 25(c)(1) of the Internal Revenue Code of 1954, as amended through July 18, 1984.

Subd. 16. **Multifamily housing project.** "Multifamily housing project" means a development defined in section 462C.02, subdivision 5, for which the applicable housing plan and program approval requirements of chapter 462C have been met. \*

Subd. 17. **Nonexempt person.** "Nonexempt person" means a person or entity other than an exempt person as defined in section 103(b)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985.

Subd. 18. **Notice of entitlement allocation.** "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section 474A.04, subdivision 5, or 474A.08, subdivision 2.

Subd. 19. **Other issuer.** "Other issuer" means any entity other than an entitlement issuer which may issue obligations subject to an annual volume cap, including but not limited to the University of Minnesota, any city, any town, any federally recognized American Indian tribe or subdivision thereof located in Minnesota, any housing and redevelopment authority referred to in chapter 462, or any body authorized to exercise the powers of a housing and redevelopment authority, any port authority referred to in chapter 458, or any body authorized to exercise the powers of a port authority, any area or municipal redevelopment agency referred to in chapter 472, any county, or any other municipal authority or agency established pursuant to special law, or any entity issuing on behalf of the foregoing.

Subd. 20. **Pollution control project.** "Pollution control project" means properties, real or personal, used in the abatement or control of noise, air, or water pollution, or in the disposal of solid waste, in connection with a revenue producing enterprise, engaged in or to be engaged in any business or industry. A project qualifies as a pollution control project only:

(1) if at least 75 percent of the proceeds of the obligations will be used for the construction, acquisition, installation, or addition of properties described in this subdivision; or

(2) if it is not a manufacturing project and at least 75 percent of the proceeds of the obligations will be used for the construction, acquisition, installation, or addition of properties described in this subdivision and subdivision 14.

Subd. 21. **Preliminary resolution.** "Preliminary resolution" means a resolution adopted by the governing body of the issuer or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project and must identify the proposed project and the proposed amount of the obligations to be issued.

Subd. 22. **Qualified 501(c)(3) bonds.** "Qualified 501(c)(3) bonds" mean obligations the proceeds of which are to be used by, or loaned or otherwise made available to, an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985, in activities directly related and essential to the conduct of the charitable activities of the organization and that are not used by a nonexempt person in its trade or business or obligations with a comparable definition in a federal volume limitation act.

Subd. 23. **Qualified mortgage bonds.** "Qualified mortgage bonds" mean obligations which are qualified mortgage bonds as defined by section 103A(c) of existing federal tax law.

Subd. 24. **Qualified mortgage credit certificate program.** "Qualified mortgage credit certificate program" means any program which satisfies the definition of such term as contained in section 25(c)(2) of the Internal Revenue Code of 1954, as amended through July 18, 1984.

Subd. 25. **Qualified multifamily housing project.** "Qualified multifamily housing project" means a multifamily housing project in which at least 50 percent of the units will be held for occupancy by families or individuals with adjusted gross income not

in excess of 80 percent of the median family income as estimated by the United States Department of Housing and Urban Development for the metropolitan statistical area.

Subd. 26. **State issuer.** "State issuer" means the state of Minnesota; the iron range resources and rehabilitation board; or other agency, department, board, or commission of the state, which is authorized to issue obligations and has statewide jurisdiction.

Subd. 27. **Substantial commitment of local public funds.** "Substantial commitment of local public funds" means that either of the following two conditions is satisfied.

(a) Under the project financing the governmental unit appropriates, pledges, guarantees, or otherwise provides local public funds to pay part of the cost of financing the obligations, including bond issuance, debt service, loan origination, and carrying expenses, or of the facility financed with the proceeds of the obligations. This condition is satisfied only if at the time the obligations are issued, the issuer reasonably expects that the aggregate value of the local public funds will exceed the lesser of \$1,000,000 or one percent of the face amount of the obligations. No provision may be made for a nonexempt person to reimburse the governmental unit for the local public funds.

(b) The governmental unit appropriates, pledges, guarantees, or otherwise provides a program contribution of local public funds or governmental services to the program or a facility financed with the proceeds of the obligations. This condition is satisfied only if the issuer reasonably expects at the time the obligations are issued that the aggregate value of the local public funds will exceed \$5,000,000 or five percent of the aggregate face amount of the obligations. The issuer must value the services at the reasonable cost of delivering them. The program contribution must be used for one or more of the following purposes:

- (i) reducing the cost of financing the obligations, as described in clause (a);
- (ii) securing the payment of debt service on obligations issued pursuant to the program;
- (iii) financing public improvements under a comprehensive redevelopment or renewal program, if the costs are reasonably allocable to a facility financed with the proceeds of the obligations and if the improvements are made no earlier than three years prior to issuance of the obligations to which the contribution applies or more than one year after issuance; or
- (iv) other costs reasonably related to the program.

If the governmental unit is reimbursed by a nonexempt person for any part of the program within five years after the contribution was made, the reimbursement must be applied for one or more of the purposes described in this paragraph.

For purposes of this subdivision, "governmental unit" means the issuer that issues the obligations for the project or the governmental unit that approves the obligations for purposes of section 103(k)(2) of the Internal Revenue Code of 1954, as amended through December 31, 1985, or both.

Subd. 28. **Waste management project.** "Waste management project" means a project which is authorized by chapter 115A or 400, sections 473.801 to 473.834, or by any other law or home rule charter authorizing substantially the same type of project.

Subd. 29. **Written development program.** "Written development program" or "program" means a written economic development plan that contains at least substantially all of the following:

- (1) a description of the area subject to the plan, which may not exceed 20 percent of the total acreage of the issuer;
- (2) a statement of the objectives for the development of the area subject to the plan;
- (3) a statement of the development plan for the area subject to the plan, including the property within the area, if any, which is to be acquired by a governmental unit;
- (4) a description of the type of specific development reasonably expected to take place within the area subject to the plan; and

(5) a description of the kind and an estimate of the amount of public funds, including local public funds, expected to be spent in connection with the development of the area subject to the plan.

**History:** 1986 c 465 art 1 s 10

**NOTE:** Subdivisions 3, 9, 10, 11, 16, 22, and 25, as added by Laws 1986, chapter 465, article 1, section 10, are repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.03 DETERMINATION OF ANNUAL VOLUME CAP.**

**Subdivision 1. Annual volume cap under existing federal tax law.** At the beginning of each calendar year, the department shall determine the aggregate dollar amount of the annual volume cap under existing federal tax law for the calendar year, and of this amount the department shall determine the following amounts:

- (1) the amount that is allocated to entitlement issuers under section 474A.04;
- (2) the amount initially available for allocation through the pool under section 474A.05, which is the annual volume cap determined under this subdivision less the amount determined under clause (1); and
- (3) the amount available for issuance of qualified mortgage bonds under section 474A.07.

**Subd. 2. Annual volume cap under federal volume limitation act.** At the beginning of each calendar year, the department shall determine the aggregate dollar amount of the annual volume cap under a federal volume limitation act during the calendar year, and of this amount the department shall determine the following amounts:

- (1) the amount, if any, that a federal volume limitation act requires be reserved for qualified 501(c)(3) bonds or the amount provided by section 474A.12, subdivision 9;
- (2) the amount of the governmental volume cap allocated to entitlement issuers under section 474A.08, stating separately (i) the amount available for issuance of "qualified mortgage bonds" or obligations with a comparable definition in a federal volume limitation act, and (ii) the amount available for issuance of any obligations; and
- (3) the amount initially available for allocation through the pool under section 474A.11, which is the amount of the governmental volume cap less the aggregate of the amounts determined in clause (2).

Notwithstanding the foregoing, for the period from and including January 1, 1987, to and including June 30, 1987, the following limitations shall apply: (i) one-half of the amount determined pursuant to clause (2)(ii) shall be allocated to entitlement issuers under section 474A.08; (ii) the entire amount determined pursuant to clause (2)(i) shall be allocated to entitlement issuers under section 474A.08; (iii) one-half of the amount determined pursuant to clause (3) shall be made available for allocation under section 474A.11; and (iv) one-half of the amount, if any, determined pursuant to clause (1) shall be made available for allocation under section 474A.12, unless the amount is determined pursuant to section 474A.12, subdivision 9, in which case the full amount is available. The remaining amount of annual volume cap for calendar year 1987 not so allocated, or made available for allocation, shall remain unallocated unless otherwise provided by law.

**Subd. 3. Adjustments for changes to volume cap in federal volume limitation act.** If the annual volume cap in a federal volume limitation act that becomes law is greater than or less than the annual volume cap that existed in a federal volume limitation act in the form that existed as of January 1, 1986, the department shall adjust the calculations made under subdivision 2, except for clause (1), and section 474A.08, except as provided in section 474A.19. If the annual volume cap is adjusted, the commissioner may withdraw any allocation granted before the adjustment was made pursuant to which obligations have been issued, only with the written consent of the issuer.

**History:** 1986 c 465 art 1 s 11; 1Sp1986 c 3 art 2 s 33

**NOTE:** Subdivisions 2 and 3 as added by Laws 1986, chapter 465, article 1, section 11, are repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

**474A.04 ENTITLEMENT ALLOCATIONS UNDER EXISTING FEDERAL TAX LAW.**

Subdivision 1. **Higher education coordinating board allocation.** Of the aggregate annual volume cap under existing federal tax law, \$25,000,000 for each calendar year is allocated to the higher education coordinating board for the issuance of obligations pursuant to chapter 136A. On September 1, any unused portion of the amount allocated to the higher education coordinating board pursuant to this subdivision cancels and the authority must be reallocated pursuant to section 474A.05.

Subd. 2. **Iron range resources and rehabilitation allocation.** Of the aggregate annual volume cap under existing federal tax law, \$30,000,000 for each calendar year is allocated to the iron range resources and rehabilitation commissioner. After September 1 of each year, the iron range resources and rehabilitation commissioner may retain any unused portion of the allocation only if the commissioner has submitted to the department on or before September 1 a preliminary resolution for a specific project and a letter which states (1) the intent to issue obligations pursuant to the allocation or a portion of it before the end of the calendar year or within the time period permitted under existing federal tax law, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the unused allocation or the portion of it pursuant to which the commissioner intends to issue obligations. The commissioner may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1, any unused portion of the amount allocated to the iron range resources and rehabilitation commissioner and not reserved by a preliminary resolution, a letter of intent, and an application deposit is canceled and must be reallocated under section 474A.05. If the iron range resources and rehabilitation commissioner returns for reallocation all or a part of the allocation on or before October 31, that portion of the application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Upon the request of a statutory city located in the taconite tax relief area which received an entitlement allocation under Minnesota Statutes 1984, section 474.18, of \$5,000,000 or more for calendar year 1985, the iron range resources and rehabilitation commissioner shall enter into an agreement with the city whereby the commissioner issues obligations, in an amount requested by the city but not to exceed \$5,000,000, on behalf of the city.

Subd. 3. **Energy and economic development authority allocation.** Of the aggregate annual volume cap under existing federal tax law, \$60,000,000 for each calendar year is allocated to the energy and economic development authority. After September 1 of each year, the energy and economic development authority or any issuer which receives an allocation from the energy and economic development authority may retain any unused portion of its allocation only if it has submitted to the department, on or before September 1 a preliminary resolution for a specific project and a letter which states (1) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted under existing federal tax law, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of its unused allocation or the portion of it pursuant to which it intends to issue obligations. The energy and economic development authority may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1 any unused portion of the amount allocated to the energy and economic development authority and not reserved by a preliminary resolution, a letter of intent, and an application deposit is canceled and must be reallocated under section 474A.05. If the energy and economic development authority or any issuer which receives an allocation from the authority returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 4. **Entitlement cities.** Of the aggregate annual volume cap under existing

federal tax law, for each calendar year the amount determined pursuant to this subdivision is allocated to (1) cities of the first class, and (2) the largest Minnesota city located in a metropolitan statistical area that does not contain a city of the first class, if the city has a population of 25,000 or more. The amount allocated to a first class city shall be an amount equal to \$200 multiplied by the city's population. The amount allocated to each city qualifying under clause (2) is \$5,000,000. After September 1 of each year, an issuer receiving an allocation under this subdivision may retain any unused portion of its allocation only if it has submitted to the department by September 1 a letter stating its intent to issue obligations pursuant to its allocation before the end of the calendar year or within the time permitted under existing federal tax law and an application deposit equal to one percent of the amount of the unused allocation for which it intends to issue obligations. Any unused portion of an allocation for which an application deposit and letter of intent has not been received by the department by September 1 must be canceled and reallocated under section 474A.05. If an issuer returns for reallocation all or part of its allocation under this subdivision by October 31, the application deposit equal to one percent of the amount returned must be refunded to the issuer.

For purposes of this subdivision, "population" means the population determined under section 477A.011, subdivision 3.

**Subd. 5. Notice of entitlement allocation.** As soon as possible in each calendar year, the department shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation under this section.

**Subd. 6. Entitlement transfers.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to issuance authority allocated to the original entitlement issuer under this section.

**History:** 1986 c 465 art 1 s 12

#### **474A.05 ALLOCATION OF POOL AMOUNT UNDER EXISTING FEDERAL TAX LAW.**

**Subdivision 1. Pool amount.** Of the aggregate annual volume cap under existing federal tax law, the amount determined pursuant to section 474A.03, subdivision 1, clause (2), shall be allocated among issuers pursuant to this section for each calendar year. An entitlement issuer may apply for an allocation pursuant to this section only after August 20. An entitlement issuer may apply for an allocation before November 1 only if the entitlement issuer has adopted a final resolution authorizing the sale of obligations equal to any allocation received under section 474A.04 or has returned all of its unused allocation for reallocation under this section.

Notwithstanding the preceding paragraph, the following entitlement issuers may apply for an allocation under this section:

(a) A city of the first class may apply for an allocation for a manufacturing project at any time.

(b) State issuers may apply for and receive allocations under this section at any time for an aggregate amount not to exceed that portion of its entitlement allocation returned for reallocation under section 474A.04.

**Subd. 2. Application.** An issuer may apply for an allocation pursuant to this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, and (2) an application deposit in the amount of one percent of the requested allocation. An issuer may elect not to submit an application for an allocation for a project for which the issuer previously adopted a preliminary resolution.

**Subd. 3. Allocation criteria.** The department shall rank each application received pursuant to this section on the basis of the number of points awarded to it, with one point being awarded for each of the following criteria satisfied:

(a) The current rate of unemployment for the applicant is at or above 110 percent

of the statewide average unemployment rate for the most recently available reporting period, as determined by the department of jobs and training. The unemployment rate for the applicant shall be the greater of (1) the most recent estimate available for the smallest jurisdiction which wholly includes the jurisdiction of the applicant, as reported by the department of jobs and training, or (2) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(b) The number of individuals employed in the applicant's jurisdiction declined from the second calendar year before the application, to the first calendar year before the application. The estimate of the number of individuals employed for each year must be based on the same source, and must be (1) the most recent estimate available for the smallest jurisdiction which wholly includes the applicant, as reported by the department of jobs and training, or (2) another estimate supplied by the applicant with respect to its jurisdiction, which is documented by the applicant.

(c) The project will provide additional general tax revenue to the taxing jurisdictions in which the project is located beginning not later than three years after issuance of the obligations.

(d) The number of jobs to be created by the project is at least two jobs for each \$100,000 of issuance authority requested for the project.

(e) As of the date of application the total market value of all taxable property in the applicant's jurisdiction, based on the most recent certification of assessed value to the commissioner of revenue, has either (1) declined in relation to the first calendar year before the certification, or (2) increased in relation to the first calendar year before the certification at a rate which is less than 90 percent of the rate of increase of the state average market value over the same period.

(f) The total capital expenditures for the project exceed by ten percent the amount of the proceeds of the obligations to be issued for the project.

(g) The project is wholly located in an enterprise zone designated pursuant to section 273.1312.

(h) The project site meets the criteria necessary to qualify as a tax increment redevelopment district as defined in section 273.73, subdivision 10. To qualify under this clause the project need not be included in a tax increment financing district.

(i) The project meets one of the following energy conservation criteria: (1) the project is eligible for the additional federal investment tax credits for energy property, (2) the project involves construction or expansion of a district heating system as defined in section 116J.36, or (3) the project involves construction of an energy source as described in section 116J.26, clause (a), (b), or (d) or 116M.03, subdivisions 22, 23 and 26.

(j) The project consists of the renovation, rehabilitation, or reconstruction of an existing building which is (1) located in a historic district designated under section 138.73, or on a site listed in the state registry of historical sites under sections 138.53 to 138.5819; or (2) designated in the National Register pursuant to United States Code, title 16, section 470a.

(k) Service connections to sewer and water systems are available to the project at the time the application is submitted.

(l) As provided by a binding agreement by the principal user or users of the project with the applicant, at least ten percent of the individuals employed by the principal user or users of the project will be minority or low income individuals.

(m) When the application is submitted either (1) the anticipated owner of the project, or any party of which the owner is a controlling partner or shareholder, or which is a controlling shareholder or partner of the owner, does not own or operate a substantially similar business within the state or (2) the project is an expansion of the operations of an existing business which is not likely to have the effect of transferring existing employment from one or more other municipalities within the state to the municipality in which the project is located.

(n) A controlling interest in the project will be owned by one or more women or minority persons.



(o) Seventy-five percent or more of the proceeds of the proposed issue will be used to rehabilitate an existing structure.

**Subd. 4. Allocation procedure.** (a) The department shall allocate available issuance authority under this section on Monday of each week to applications received on or before Monday of the preceding week in the following order of priority and available issuance authority may not be allocated to any other project:

- (1) applications for manufacturing projects;
- (2) applications for pollution control projects or waste management projects; and
- (3) applications for commercial redevelopment projects.

Within each category of applications available authority shall be allocated on the basis of the numerical rank determined pursuant to this section. In the case of an application for issuance authority that includes more than one project to be financed by one issue of obligations, the points assigned to the application shall be computed on the basis of the weighted average of points for the projects. The projects must all be of the same category of projects to be submitted as a multiproject application. If two or more applications have the same numerical rank, the ranking of the applications must be by lot unless otherwise agreed by the respective issuers. If an application is rejected, the department must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted.

(b)(1) From January 1 through September 30, no more than 20 percent of the total amount available for allocation during the calendar year pursuant to this section may be allocated to pollution control and waste management projects.

(2) From January 1 to September 30, no more than 35 percent of the total amount available for allocation during the calendar year pursuant to this section may be allocated to commercial redevelopment projects. This amount is increased to 50 percent of the total available authority for the next month's allocation if the following two conditions occur: (i) on or after June 30 the total amount of issuance authority available under this section which has not been allocated or has been allocated to but was returned by an issuer exceeds 45 percent of the total amount of issuance authority available for allocation under this section for the calendar year; and (ii) the entire amount of issuance authority available under this subparagraph for commercial redevelopment projects has been allocated.

**Subd. 5. Letter of intent.** After September 1 of each year, an issuer which has received an allocation pursuant to this section prior to September 1 may retain any unused portion of the allocation only if the issuer has submitted to the department on or before September 1 a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by existing federal tax law. If the letter of intent is not submitted to the department, the one percent application deposit must be returned to the issuer, the allocation is canceled, and the issuance authority is available for reallocation pursuant to this section. If an issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days.

**Subd. 6. Final allocation.** From October 1 to December 31 of each year, the annual volume cap under existing federal tax law, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, is available for allocation or reallocation and shall be allocated among issuers. The iron range resources and rehabilitation commissioner, the energy and economic development authority, or an entitlement city may reallocate after September 30 its retained allocation among projects identified in preliminary resolutions filed with the department prior to October 1. An application for an allocation under this subdivision must include evidence of passage of a preliminary resolution and state that it is the intent of the applicant that the obligations will be issued by the end of the year or within the time period permitted by existing federal

tax law, and must be accompanied by an application deposit in the amount of one percent of the requested allocation. Applications must be made and allocations shall be awarded in accordance with subdivisions 3 and 4.

After September 30, authority may be allocated under this subdivision to any project, notwithstanding the percentage limits and other restrictions contained in subdivision 4. Applications must be ranked and authority allocated first according to the order of priority and ranking of points under subdivisions 3 and 4. The remaining authority must be allocated according to the ranking of points under subdivision 3. If two or more applications receive an equal number of points, allocations among them must be made by lot unless otherwise agreed by the respective applicants.

If issuance authority remains or becomes available following the last Monday on which allocations are made for any calendar year, the department must allocate the available authority to the department of finance. The department of finance shall allocate the remaining authority between the Minnesota housing finance agency and the higher education coordinating board. Amounts allocated to the Minnesota housing finance agency shall be used for the issuance of mortgage credit certificates, and amounts allocated to the higher education coordinating board shall be used for the issuance of obligations under chapter 136A.

**Subd. 7. Return of allocation.** If on or after November 1 but prior to December 1 of any year, an issuer determines that it will not issue obligations pursuant to an allocation received by it pursuant to this section or section 474A.04 by the end of that year or within the time period permitted by existing federal tax law, the issuer must notify the department and the amount will be available for reallocation pursuant to this subdivision. In such case, the department shall refund to the issuer within 30 days that portion of any application deposit equal to one-third of one percent of the amount returned for reallocation. The amounts available for reallocation must be allocated on or before December 31 pursuant to subdivision 6.

**History:** *1Sp1985 c 14 art 9 s 75; 1986 c 465 art 1 s 13*

#### **474A.06 NOTICE OF ISSUE UNDER EXISTING FEDERAL TAX LAW.**

Issuers that issue obligations subject to existing federal tax law shall file with the department within five days after the obligations are issued a written notice of issue stating the date of issuance of the obligations, the allocation under which the obligations are issued, and the principal amount of the obligations. If obligations are to be issued as a series of obligations, the notice of issue must be filed for each series of obligations that is issued. If the notice of issue is not filed within five days after the obligations are issued, the obligations shall be considered not to have received an allocation under existing federal tax law. Within 30 days after receipt of the notice, the department shall refund a portion of the application deposit required under section 474A.04 or 474A.05 equal to one percent of the principal amount of the obligations issued.

**History:** *1986 c 465 art 1 s 14*

#### **474A.07 QUALIFIED MORTGAGE BONDS.**

**Subdivision 1. Housing finance agency allocation.** The applicable volume limit for qualified mortgage bonds for the Minnesota housing finance agency, pursuant to existing federal tax law, for a calendar year is 100 percent of the state ceiling for qualified mortgage bonds for that year, reduced only by (1) any amounts of qualified mortgage bonds which have been or may be allocated by law to specified cities, and (2) any amounts of qualified mortgage bonds which are allocated to cities pursuant to subdivisions 2 and 3. The aggregate amount allocated to cities, under clause (1) or (2), together with the amount of qualified mortgage bonds reserved for the agency, shall not exceed the limit for the state under existing federal tax law.

By August 1 of each year, a city which has received by law an allocation of the state ceiling for qualified mortgage bonds shall submit its housing programs to the Minnesota

housing finance agency for approval pursuant to section 462C.04, subdivision 2, in an amount of bonds equal to or less than, the city's allocation. If the amount of qualified mortgage bonds, for which program approval is granted on or before September 1 is less than the amount allocated by law to the city, the applicable limit for the agency shall be increased by the difference between the amount allocated by law to the city, and the amount for which program approval has been granted.

**Subd. 2. City allocation.** Unless otherwise authorized by law, a city that intends to issue during any calendar year qualified mortgage bonds that are subject to existing federal tax law, shall by January 2 of that year submit to the Minnesota housing finance agency a program that will use a portion of the state qualified mortgage bond ceiling. The total amount of qualified mortgage bonds included in all programs submitted pursuant to this subdivision by a city may not exceed \$10,000,000. Each program shall be accompanied by a certificate from the city that states that the qualified mortgage bond issue is feasible. By February 1, the Minnesota housing finance agency shall review each program pursuant to section 462C.04, subdivision 2. The Minnesota housing finance agency shall approve all programs that the agency determines are consistent with chapter 462C, and that meet the following conditions:

(1) all of the loans must be reserved for a period of not less than six months for persons and families whose adjusted family income is below 80 percent of the limits on adjusted gross income provided in section 462C.03, subdivision 2; and

(2) loans must be made only to finance homes that are serviced by municipal water and sewer utilities; provided that if the approval of all programs would result in an allocation to cities in excess of 27-1/2 percent of the state ceiling for the calendar year 1985, reduced by the amount of qualified mortgage bonds that are allocated by law to specified cities, the Minnesota housing finance agency shall approve programs that are submitted by a city which meets any of the following three criteria: (i) a city of the first class, (ii) a city that did not receive an allocation under this subdivision or Minnesota Statutes 1984, section 462C.09, subdivision 2(a), or Minnesota Statutes 1985 Supplement, section 462C.09, subdivision 2(a), during the preceding two calendar years, or (iii) a group of cities that plan to jointly issue bonds for the program provided further that if approval of all of the programs submitted by cities that meet one or more of the criteria in (i), (ii), or (iii) would result in a total allocation to cities in excess of the portion of the state ceiling available for allocation, then from among those programs the agency shall select by lot the programs to be approved. If a portion of the state ceiling remains unallocated after the agency has approved all programs submitted by cities that meet one or more of the criteria in (i), (ii), or (iii), the Minnesota housing finance agency shall select by lot from among the remaining programs the programs to be approved. The Minnesota housing finance agency shall determine if a program meets the conditions in clauses (1) and (2) based solely upon the program with accompanying information submitted to the agency. Approval of a program shall constitute an allocation of a portion of the state ceiling for qualified mortgage bonds equal to the proposed bond issue or issues contained in the program, provided that the allocation for the last selected program that receives an allocation may be equal to or less than the amount of the bond issue or issues proposed in the program.

If a city which received an allocation pursuant to this subdivision, or which has been allocated a portion of the state ceiling by law and has received approval of one or more programs, has not issued bonds by September 1 in an amount equal to the allocation, and the city intends to issue qualified mortgage bonds prior to the end of the calendar year, the city shall by September 1 submit to the Minnesota housing finance agency for each program a letter that states the city's intent to issue the qualified mortgage bonds prior to the end of the calendar year. If the Minnesota housing finance agency does not receive the letter from the city, then the allocation of the state ceiling for that program expires on September 1, and the applicable limit for the Minnesota housing finance agency is increased by an amount equal to the unused portion of the allocation to the city. A city referred to in subdivision 1, clause (1), need not apply under this subdivision with respect to bonds allocated by law to the city. Nothing in

this subdivision shall prevent any such city from applying for an additional allocation of bonds under this subdivision.

**Subd. 3. Additional city allocation.** On or before September 1 of each year, the Minnesota housing finance agency shall identify the amount, if any, of its applicable limit for qualified mortgage bonds for that calendar year that it does not intend to issue. A city that intends to issue qualified mortgage bonds prior to the end of the calendar year for which it has not received an allocation of the state ceiling may submit a program for approval on or before September 1 to the Minnesota housing finance agency for a portion of the amount of the Minnesota housing finance agency's applicable limit as provided in subdivision 1 which the agency does not intend to issue. The total amount of qualified mortgage bonds included in all programs of any city submitted pursuant to this subdivision shall not exceed \$10,000,000. The program shall be accompanied by the same certificate required by subdivision 2. The Minnesota housing finance agency shall allocate the amount of the state ceiling to be allocated pursuant to this subdivision using the same factors listed in subdivision 2, provided that a program for a city receiving an allocation pursuant to subdivision 2 during the calendar year shall be ranked below all other programs if the bonds proposed in the program, when added to the bonds included in programs approved pursuant to subdivision 2, exceed \$10,000,000. A city that submitted a program pursuant to subdivision 2 but that did not receive an allocation may renew its application with a letter of intent to issue. Nothing in this subdivision shall prevent a city referred to in subdivision 1, clause (1), from applying for an additional allocation of bonds under this subdivision.

**Subd. 4. Agency review.** The 30-day review requirement in section 462C.04, subdivision 2, does not apply to programs submitted to the agency that require an allocation of the state ceiling pursuant to this section. A failure by the agency to complete any action by the dates set forth in this section shall not result in the approval of any program or the allocation of any portion of the applicable limit of the agency. Approval by the agency of programs after the dates provided in this section is effective in allocating a portion of the state ceiling. Programs approved by the agency may be amended with the approval of the agency under section 462C.04, subdivision 2, provided that the dollar amount of bonds for the program may not be increased.

**Subd. 5. State certification.** The executive director of the Minnesota housing finance agency is designated as the state official to provide the preissuance certification required by section 103A(j)(4)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1985.

**Subd. 6. Correction amounts for mortgage credit certificate programs.** A reduction in the state ceiling for qualified mortgage bonds caused by the failure of a mortgage credit certificate program to comply with a federal statute or regulation shall be assessed against the amount of qualified mortgage bonds allocated by law, other than by way of this section, to the city which adopted the program. If no such allocation exists or it is less than the correction amount determined by the secretary of the treasury, then the amount of the correction amount in excess of the allocation shall be assessed against the 27-1/2 percent of the state ceiling allocated to the cities under subdivision 2.

**Subd. 7. Federal volume limitation act.** Any issuance authority received by the agency under section 474A.09 or by a city under section 474A.08 or subdivision 3 may be used for the issuance of "qualified mortgage bonds" or obligations with a comparable definition in a federal volume limitation act, in the same manner and subject to the same conditions provided for in this section for qualified mortgage bonds.

**History:** 1986 c 465 art 1 s 15

**NOTE:** Subdivision 7, as added by Laws 1986, chapter 465, article 1, section 15, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.08 DETERMINATION OF ENTITLEMENT ALLOCATIONS UNDER FEDERAL VOLUME LIMITATION ACT.**

**Subdivision 1. Entitlement issuers.** The dollar amount of the governmental volume cap allocated to entitlement issuers under a federal volume limitation act for each calendar year must be determined by the department as follows:

(1) to the department of finance 24 percent of the governmental volume cap to be allocated among state issuers under section 474A.09;

(2) to each city, a sum equal to 75.6 percent of the amount of bond issuance authority allocated to the city under section 474A.04, subdivision 4, provided that if there is an adjustment to the annual volume cap under section 474A.03, subdivision 3, the amount of issuance authority allocated by this clause must be adjusted so that each city is allocated a percentage of the adjusted governmental volume cap that is equal to the percentage of the governmental volume cap originally allocated to each city;

(3) to each city to which bond issuance authority is specifically allocated under state law for qualified mortgage bonds, a sum equal to the full amount of the bond issuance authority, which amount is to be used solely for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition as used in the federal volume limitation act prior to September 1, and thereafter may also be used for the issuance of either such mortgage bonds or obligations to finance multifamily housing projects;

(4) to a city or cities that received an allocation to issue qualified mortgage bonds during 1986 under Minnesota Statutes 1985 Supplement, section 462C.09, subdivision 2a, an amount or amounts for 1986 equal to such allocation, which amount may be used prior to September 1 for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition in a federal volume limitation act, and thereafter may also be used for the issuance of obligations to finance multifamily housing projects; and

(5) to a city or cities determined in accordance with the procedure set forth in section 474A.07, subdivision 2, an allocation to issue qualified mortgage bonds during 1987, in an amount determined in accordance with such procedure contained in section 474A.07, subdivision 2, which amount may be used prior to September 1 for the issuance of "qualified mortgage bonds" or for obligations with a comparable definition in a federal volume limitation act, and thereafter may also be used for the issuance of obligations to finance multifamily housing projects.

For any entitlement issuer that received an allocation for a qualified multifamily housing project in 1986 and did not issue obligations for the project within the time period specified under section 474A.13, subdivision 3, the amount allocated to the entitlement issuer under this subdivision for 1987 must be reduced by the amount of the unused allocation and the amount of any other allocation retained by that issuer after September 1, 1986, for which obligations have not been issued in 1986. The amount of any reduction in allocation must be added to the amounts available for pool allocation under section 474A.11.

For purposes of this subdivision, "population" means the population determined under section 477A.011, subdivision 3.

**Subd. 2. Notice of entitlement allocation.** As soon as possible in each calendar year, the department shall provide a notice of entitlement allocation to each entitlement issuer stating separately the amount that may be issued for "qualified mortgage bonds" or for obligations with a comparable definition, a federal volume limitation act and the amount that may be issued for any obligations.

**History:** 1986 c 465 art 1 s 16

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 16, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.09 ALLOCATION OF STATE ENTITLEMENTS UNDER FEDERAL VOLUME LIMITATION ACT.**

The amount allocated to the department of finance under section 474A.08, subdivision 1, clause (1), may be allocated or reallocated by the commissioner of the department of finance internally among state issuers at any one time or from time to time during the calendar year, provided that 11.5 percent of the entitlement allocation is allocated to the iron range resources and rehabilitation commissioner. Upon the

request of a statutory city located in the taconite tax relief area that received an entitlement allocation under Minnesota Statutes 1984, section 474.18, of \$5,000,000 or more for calendar year 1985, the iron range resources and rehabilitation commissioner shall enter into an agreement with the city whereby the commissioner issues obligations on behalf of the city, in an amount requested by the city but not to exceed 17 percent of the amount allocated to the commissioner under this subdivision.

**History:** 1986 c 465 art 1 s 17

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 17, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.10 ENTITLEMENT ISSUERS UNDER THE FEDERAL VOLUME LIMITATION ACT.**

**Subdivision 1. Notice of issue.** Each entitlement issuer that issues obligations pursuant to an entitlement allocation received under section 474A.08 shall provide a notice of issue to the department on forms provided by the department stating (1) the date of issuance of the obligations; (2) the title of the issue; (3) the principal amount of the obligations; (4) the type or types of the obligations that cause them to be subject to the annual volume cap; and (5) the dollar amount of the obligations subject to the governmental volume cap of a federal volume limitation act. For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under a federal volume limitation act. Within 30 days after receipt of the notice of issue, the department shall refund a portion of any deposit made pursuant to subdivision 3 equal to one percent of the principal amount of the allocation authority issued.

**Subd. 2. Entitlement transfers.** An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to issuance authority allocated to the original entitlement issuer.

**Subd. 3. Reservation or cancellation of entitlement allocations.** After September 1, 1986, an entitlement issuer may retain all or a portion of its entitlement allocation under a federal volume limitation act only if the department has received by September 1 a letter stating the intent of the entitlement issuer to issue obligations under its entitlement allocation before the end of the calendar year or within the time permitted by a federal volume limitation act and an application deposit equal to one percent of the unused allocation for which it intends to issue obligations, provided that there shall be credited against the required deposit, any deposit made in accordance with section 474A.04 for a corresponding allocation under existing federal tax law. Any unused portion of an allocation for which an application deposit and letter of intent have not been received by the department by September 1, 1986, is canceled and must be reallocated under section 474A.11. Notwithstanding the provisions of this subdivision, the department of finance may retain \$15,000,000 of its entitlement allocation for the issuance of obligations. If any time after August 31, 1986, the department of finance determines that part or all of the retained allocation will not be required for obligations issued by the state, the portion not required shall be canceled and shall be reallocated under section 474A.11.

If an entitlement issuer returns for reallocation all or part of its allocation under this subdivision after August 31, but on or before October 31, the application deposit equal to one percent of the amount of issuance authority returned must be refunded to the issuer. If all or part of the entitlement allocation is returned for reallocation after October 31, but before December 1, the application deposit equal to one-third of one percent of the amount of issuance authority returned must be refunded. The amount of any refund is reduced by the amount of the deposit refunded under section 474A.04.

**History:** 1986 c 465 art 1 s 18

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 18, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

**474A.11 ALLOCATION OF POOL AMOUNT UNDER THE FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **Pool amount.** For calendar year 1986 and from January 1 to June 30 of calendar year 1987, the portion of the governmental volume cap determined under section 474A.03, subdivision 2, clause (3), and any allocations canceled or returned for reallocation under section 474A.10 or 474A.12, subdivision 9, shall be allocated to issuers, other than state issuers, under this section.

An entitlement issuer may apply for an allocation under this section only after August 20. If an entitlement issuer applies for an allocation prior to November 1, the entitlement issuer must have either adopted a final resolution authorizing the sale of obligations in an amount equal to any allocation received under section 474A.08 or returned any remaining allocation for reallocation under this section. State entitlement issuers, other than the iron range resources and rehabilitation commissioner, may not apply for an allocation under this section except as provided in clause (d).

Notwithstanding the preceding paragraph, the following entitlement issuers may apply for an allocation under this section:

(a) Entitlement issuers that received an allocation only under section 474A.08, subdivision 1, clause (4) or (5), may apply for an allocation at any time.

(b) A city of the first class may apply for an allocation for a manufacturing project at any time.

(c) Any entitlement issuer, other than state issuers, may apply for an allocation for a qualified multifamily housing project after September 1 if (1) it has adopted a preliminary resolution for specific projects for the amount of any of its retained entitlement allocation, and (2) the amount of allocation applied for does not exceed \$10,000,000.

(d) State issuers may apply for and receive allocations under this section at any time in an aggregate amount not to exceed that portion of the state's entitlement allocation returned for reallocation under section 474A.10.

Subd. 2. **Application.** An issuer may apply for an allocation pursuant to this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, and (2) if the application is submitted prior to September 1 of any calendar year, an application deposit in the amount of one percent of the requested allocation, or if the application is submitted after August 31, 1986, an application deposit in the amount of two percent of the requested allocation, provided that there shall be credited against the required deposit any deposit made with respect to the same project in accordance with section 474A.05. An application deposit for a qualified multifamily housing project must include an additional application deposit in the amount of one percent of the requested allocation. An application pursuant to this section may be combined with an application under section 474A.05.

Subd. 3. **Allocation criteria.** The department shall rank each application received under this section on the basis of the number of points awarded to it, with one point being awarded for each of the criteria listed in section 474A.05, subdivision 3, that are satisfied, and one point being awarded for each of the following criteria:

(1) the project is a multifamily housing project; and

(2) the project is a multifamily housing project designed for rental primarily to handicapped persons or to elderly persons.

An application for an allocation relating to an issue of obligations the proceeds of which are to be used to refund outstanding obligations shall be assigned a ranking of no points.

Subd. 4. **Allocation procedure.** (a) The department shall allocate available issuance authority on Monday of each week to applications received by Monday of the preceding week, in the following order of priority and available issuance authority may not be allocated to any other project prior to October 1, 1986:

- (1) applications for manufacturing projects;
- (2) applications for pollution control projects or waste management projects; and
- (3) applications for commercial redevelopment projects or multifamily housing projects.

Within each category of applications available authority must be allocated on the basis of the numerical rank determined under this section. In the case of an application for an allocation relating to more than one project to be financed by one issue of obligations, the points assigned to the application shall be computed on the basis of the weighted average of points for the projects. The projects must all be of the same category of projects to be submitted as a multiproject application. If two or more applications have the same numerical rank, the ranking of the applications must be by lot unless otherwise agreed by the respective issuers. If an application is rejected, the department shall notify the applicant and shall return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted.

(b) From January 1 to September 30, no more than 20 percent of the total amount of issuance authority available for allocation during the calendar year pursuant to this section may be allocated to pollution control and waste management projects.

(c) From January 1 to September 30, no more than 35 percent of the total amount of issuance authority available for allocation during the calendar year pursuant to this section may be allocated to commercial redevelopment projects and multifamily housing projects. This amount is increased to 50 percent of the total available authority for the next month's allocation if the following two conditions occur: (1) on or after June 30 the total amount of issuance authority available under this section which has not been allocated or has been allocated to but was returned by an issuer exceeds 45 percent of the total amount of issuance authority available for allocation under this section for the calendar year; and (2) the entire amount of issuance authority available under this clause for commercial redevelopment and multifamily housing projects has been allocated.

From October 1 to December 31 of each year, the annual volume cap under a federal volume limitation act, which is not both previously allocated and subject to a preliminary resolution for a specific project, whether or not committed pursuant to a letter of intent, or which is not reserved for qualified mortgage bonds, is available for allocation or reallocation and shall be allocated among issuers. An entitlement issuer may reallocate after September 30 its retained allocation among projects identified in preliminary resolutions filed with the department prior to October 1.

After September 30, allocations shall be made under this subdivision to any project including, without limitation, projects for owner-occupied housing, notwithstanding the percentage limits and other restrictions contained in this subdivision. Applications must be ranked and allocations made first according to the order of priority and ranking of points under subdivision 3 and this subdivision. Any remaining amount must be allocated according to the ranking of points under subdivision 3. If two or more applications receive an equal number of points, allocations among the applications must be made by lot unless otherwise agreed by the respective applicants.

**Subd. 5. Certificate of allocation.** The granting of an allocation of issuance authority by the department pursuant to this section shall be evidenced by issuance of a certificate of allocation provided to the applicant in accordance with section 474A.13.

**Subd. 6. Final allocation.** If issuance remains or becomes available following the last Monday on which allocations are made during any calendar year, the department must allocate the remaining authority to the department of finance, and the department of finance shall allocate the remaining authority between the Minnesota housing finance agency and the higher education coordinating board. Amounts so allocated to the Minnesota housing finance agency must be used for the issuance of mortgage credit certificates, and amounts allocated to the higher education coordinating board must be used for the issuance of obligations under chapter 136A.



**History:** 1986 c 465 art 1 s 19

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 19, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

**474A.12 501(C)(3) POOL; FEDERAL VOLUME LIMITATION ACT.**

Subdivision 1. **501(c)(3) pool.** This section applies only to allocations made under a federal volume limitation act. The amount, if any, of the aggregate annual volume cap that must be set aside for qualified 501(c)(3) bonds in 1986 or in 1987 or pursuant to subdivision 9 shall be allocated under this section.

Subd. 2. **Higher education facilities authority.** Of the portion of the annual volume cap allocated under this section, \$20,000,000 for each calendar year is allocated to the higher education facilities authority for the issuance of obligations under sections 136A.25 to 136A.42. After September 1 of each year, the higher education facilities authority may retain any unused portion of its allocation only if the higher education facilities authority submits to the department on or before September 1 a letter which states (1) its intent to issue obligations pursuant to its allocation or a portion of it before the end of the calendar year or within the time period permitted under a federal volume limitation act, and (2) a description of the specific project or projects for which the obligations will be issued, together with an application deposit in the amount of one percent of the amount of the unused allocation or the portion of it pursuant to which it intends to issue obligations. The authority may subsequently reallocate the retained allocation among the projects described in clause (2). On September 1 any unused portion of the amount allocated to the higher education facilities authority and not reserved by a letter of intent and an application deposit is canceled and subject to reallocation in accordance with subdivision 3. If the higher education facilities authority returns for reallocation all or any part of its allocation on or before October 31, that portion of the application deposit equal to one percent of the amount returned shall be refunded within 30 days.

Subd. 3. **Application.** An issuer may apply for an allocation of bond issuance authority under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution of the issuer, and (2) an application deposit in the amount of one percent of the requested allocation. The higher education facilities authority may apply for an allocation under subdivision 4 or 6 only if it has adopted a final resolution authorizing the sale of obligations in an amount equal to the allocation received and not returned for reallocation under subdivision 2.

Subd. 4. **Allocation.** As of the 10th and 25th day of each month prior to September 1, the department shall allocate issuance authority available under this section on the basis of applications then on hand, assigning allocations in the order in which the applications are received by the department. If two or more applications are filed with the department on the same day and if there is insufficient issuance authority for the applications, the allocation between or among the applications shall be by lot unless otherwise agreed by the respective applicants. Before September 1 the amount allocated to an issuer for a 501(c)(3) organization may not exceed \$15,000,000 for the year. Two or more local issuers may combine their allocations in one or more single bond issues which exceed \$15,000,000 so long as no more than \$10,000,000 of the bond issue is for facilities located within the geographic boundaries of each issuer. The obligations may be issued jointly by a joint powers board or by one issuer on behalf of all the issuers to whom the allocation is made.

Subd. 5. **Letter of intent.** After September 1 of each calendar year, an issuer which has received an allocation pursuant to this section prior to September 1, may retain an unused portion of the allocation only if the issuer has submitted to the department on or before September 1 a letter stating its intent to issue obligations before the end of the calendar year or within the time period permitted by a federal volume limitation act. If the letter of intent is not submitted to the department, the one percent application deposit must be returned to the issuer and the allocation is canceled and

available for reallocation pursuant to subdivision 6. If an issuer returns for reallocation all or any part of its allocation on or before October 31, that portion of its application deposit equal to one percent of the amount returned shall be refunded within 30 days. If it returns the allocation after October 31 but before December 1, that portion of the application deposit equal to one-third of one percent of the amount returned must be refunded within 30 days.

**Subd. 6. Allocation after September 1.** On September 1 of each year the aggregate amount set aside for qualified 501(c)(3) bonds, less any amounts previously allocated or reallocated and either reserved by an issuer with a letter of intent or with respect to which a notice of issue has been filed shall be reallocated in accordance with this subdivision.

Bond issuance authority subject to reallocation under this subdivision on and after September 1 in any year must be allocated by the department in the order in which the applications were received by the department. If two or more applications are filed with the department on the same day and if there is insufficient issuance authority for the applications, the allocation between or among such applications shall be by lot unless otherwise agreed by the respective applicants. As soon as practicable after September 1, the department shall publish in the State Register a notice of the aggregate amount available for reallocation pursuant to this subdivision. Within five days after September 10, October 10, November 10, December 10, and December 20, the department shall allocate available authority under this subdivision. If issuance remains or becomes available following the final December 20th allocation, the department must allocate the remaining authority to the department of finance, and the department of finance shall allocate the remaining authority to eligible projects under a federal volume limitation act.

**Subd. 7. Notice of 501(c)(3) allocation.** The department shall issue a notice granting an allocation of issuance authority under this section. No allocation shall be made if the sum of the principal amount of proposed allocation and the aggregate principal amount of allocations previously made and not returned for reallocation exceeds the amount of issuance authority set aside, without the right to override by state legislation for qualified 501(c)(3) bonds under a federal volume limitation act. If an application is rejected, the department must notify the applicant and return the application deposit to the applicant within 30 days, unless the applicant requests in writing that the application be resubmitted.

**Subd. 8. Notice of issue.** Issuers that issue obligations under this section shall provide a notice of issue to the department on forms provided by the department stating (1) the date of issuance of the obligations; (2) the title of the issue; (3) the principal amount of the obligations; and (4) the dollar amount of the obligations subject to the annual volume cap of a federal volume limitation act. For obligations issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under a federal volume limitation act. Within 30 days after receipt of the notice of issue, the department shall refund a portion of any deposit made pursuant to subdivision 3 equal to one percent of the amount of allocation authority issued.

**Subd. 9. No mandatory set-aside; 501(c)(3) pool.** If a federal volume limitation act is enacted that does not require that issuance authority be set aside for qualified 501(c)(3) bonds and qualified 501(c)(3) bonds are subject to the annual volume cap, \$70,000,000 of issuance authority is available for allocation under this section from January 1 through October 31 of 1986 and \$35,000,000 of issuance authority is available for allocation under this section from January 1, 1987 through June 30, 1987. Notwithstanding the provisions of subdivision 6, if issuance authority is available for allocation pursuant to this subdivision, no allocation may be made pursuant to this section after October 31 for calendar year 1986 and the remaining amount of unallocated authority under this section that is or becomes available is canceled and must be reallocated pursuant to section 474A.11.

**History:** 1986 c 465 art 1 s 20; 1Sp1986 c 3 art 2 s 34

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 20, and amended by Laws 1986, First Special Session chapter 3, article 2, section 34, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.13 CERTIFICATE OF ALLOCATION UNDER FEDERAL VOLUME LIMITATION ACT.**

**Subdivision 1. Issuance of certificate of allocation.** The department shall issue a certificate of allocation for any allocation granted under section 474A.11, except as provided in subdivision 4.

**Subd. 2. Issuance of certificate of allocation; general obligations.** The department shall issue a certificate of allocation for any general obligation for which an allocation request is received upon forms provided by the department, except as provided in subdivision 4. Such forms shall contain:

- (1) the name and address of the issuer;
- (2) the address, telephone number, and name of an authorized representative of the issuer;
- (3) the principal amount of general obligations proposed to be issued by the issuer;
- (4) the title of the proposed issue;
- (5) a statement of the issuer that the proposed issue of obligations is expected to be offered for sale on or before the expiration date of the certificate of allocation for which the request is being made;
- (6) the amount of the allocation requested;
- (7) the project or projects to be financed with the general obligations; and
- (8) a certification that the general obligations do not constitute "industrial development bonds" as defined in section 103(b) of the Internal Revenue Code of 1954, as amended through December 31, 1985, which certification shall be accompanied by an opinion of bond counsel to such effect.

An entitlement city may apply for a certificate of allocation under this subdivision prior to October 1 only if it has adopted a final resolution authorizing the sale of obligations in an amount equal to any allocation received under section 474A.08 or returned any remaining allocation for reallocation under section 474A.11. No certificate of allocation shall be issued pursuant to this authorization in excess of \$10,000,000. The aggregate amount of issuance authority that may be allocated to an issuer pursuant to this subdivision for the calendar year may not exceed \$20,000,000. If submitted on or after September 1 for calendar year 1986, an allocation request shall be accompanied by a deposit in the amount of one percent of the amount of allocation requested. The department shall issue certificates of allocation on Monday of each week for applications received by Monday of the preceding week and shall make the allocations among the applications by lot.

**Subd. 3. Notice of issue.** A certificate of allocation expires and is deemed not to have been issued if the department has not received a notice of issue on a form provided by the department stating that the obligations for which the certificate of allocation was provided were issued, or in the case of a general obligation, a final resolution providing for sale was adopted, within the longest of the following periods:

- (1) for a certificate of allocation issued on or prior to August 15, 1986, or anytime in 1987, within 30 days of the date of issuance of the certificate;
- (2) for a certificate of allocation issued between August 16 and September 1, 1986, by September 16, 1986;
- (3) for a certificate of allocation issued on or after September 1 and before the second to the last Monday of December 1986, within 15 days of the date of issuance of the certificate;
- (4) for a certificate of allocation issued on or after the second to the last Monday of December 1986, by the end of that year or within the time permitted by a federal volume limitation act; and

(5) for a certificate of allocation issued to an entitlement issuer for a qualified multifamily housing project, within 30 days of issuance of the certificate of allocation.

Any of the periods specified in clause (1), (2), or (3) may be extended for an additional period of the same number of days if an additional deposit in the amount of three percent of the amount of the certificate of allocation is provided before the end of the initial period. The period specified in clause (5) may be extended for an additional 30 days if an additional deposit in the amount of four percent of the amount of the certificate of allocation is provided before the end of the initial period.

The notice of issue must be executed by an officer of the issuer or by the bond counsel approving the issue and must state the principal amount of the obligations issued or to be issued and the difference, if any, between the amount issued or to be issued and the amount stated in the certificate of allocation. If the notice of issue is not provided to the department by the time required, the certificate of allocation expires, the issue is deemed not to have received an allocation for the purpose of complying with a federal volume limitation act, and the deposit required by section 474A.11 or this section is forfeited by the issuer. If the notice is received by the department on or prior to the prescribed deadline, then within 30 days after receipt of this notice, the department shall refund a portion of any application deposit in proportion to the amount of allocation authority issued, reduced by any amount refunded under section 474A.05.

**Subd. 4. Limitations on the issuance of certificates.** No certificate of allocation may be granted under a federal volume limitation act under any of the following circumstances:

(1) the amount of the allocation requested, when added to (i) the aggregate amount of certificates of allocation issued and not expired; (ii) amounts remaining available to be allocated pursuant to section 474A.11; and (iii) entitlement authority allocated pursuant to section 474A.08 and not returned pursuant to section 474A.10, subdivision 3, for reallocation would cause the governmental volume cap to be exceeded. If two or more applications for a certificate of allocation are filed with the department on the same day and there is insufficient issuance authority for the applications, certificates shall be issued first for applications made pursuant to subdivision 2 and thereafter for applications made pursuant to subdivision 1; or

(2) the principal amount of the proposed allocation exceeds \$25,000,000 unless the issuer is the Minnesota housing finance agency or the Minnesota higher education coordinating board, or unless the issue is a pooled or joint issue or any issue of a joint powers board, provided that for joint or pooled issues or issues of a joint powers board the aggregate amount of the issue cannot exceed \$100,000,000.

**Subd. 5. Certificates are not transferable.** Certificates of allocation are not transferable. An issuer that receives an allocation of issuance authority pursuant to sections 474A.01 to 474A.21 to finance a project within the boundaries of the issuer may allow another issuer to issue obligations pursuant to the issuance authority only if the boundaries of the other issuer are coterminous with the boundaries of the issuer that received the authority.

**History:** 1986 c 465 art 1 s 21

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 21, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

#### **474A.14 NOTICE OF AVAILABLE AUTHORITY.**

The department shall publish in the State Register at least twice monthly, a notice of the amount of issuance authority, if any, available for allocation pursuant to sections 474A.05, 474A.11, and 474A.12.

**History:** 1986 c 465 art 1 s 22

#### **474A.15 STATE HELD HARMLESS.**

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under sections 474A.01 to 474A.21.

**History:** 1986 c 465 art 1 s 23

**474A.16 EXCLUSIVE METHOD OF ALLOCATION.**

Sections 474A.01 to 474A.21 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of a federal volume limitation act and existing federal tax law. An issuer of obligations may elect to obtain an allocation of authority under either existing federal tax law, a federal volume limitation act, or both.

*History: 1986 c 465 art 1 s 24*

**474A.17 ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.**

Minnesota Statutes, chapter 14, shall not apply to actions taken by any state agency, entity, or the governor under sections 474A.01 to 474A.21.

*History: 1986 c 465 art 1 s 25*

**474A.18 PROSPECTIVE OVERRIDE OF FEDERAL VOLUME LIMITATION ACT.**

Sections 474A.01 to 474A.21 prospectively override and replace the method of allocating the authority to issue obligations among uses and among issuers as provided in a federal volume limitation act to the extent allowed by a federal volume limitation act.

*History: 1986 c 465 art 1 s 26*

**NOTE:** This section, as amended by Laws 1986, chapter 465, article 1, section 26, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

**474A.19 GOVERNOR'S ACTION.**

If at any time before June 30, 1987, a federal volume limitation act is enacted into law in a form different from that existing as of December 31, 1985, which eliminates or adds any requirement that a specific type of obligation is subject to a volume limitation that is inconsistent with the allocation mechanism provided for in sections 474A.01 to 474A.21, or provides for other restrictions on the allocation of issuance authority that are inconsistent with the allocation mechanism provided for in sections 474A.01 to 474A.21, the governor may, consistent with a federal volume limitation act as enacted, by executive order or proclamation, establish such revisions to the allocation system as may be necessary and appropriate and which the governor, in consultation with the legislative advisory commission and the attorney general, determines are most consistent with the purposes of and the allocation mechanism provided for in sections 474A.01 to 474A.21. An executive order or proclamation made by the governor under this section shall not withdraw or impair any allocation made if obligations have been issued under such allocations unless the obligations are not or will not be subject to the volume cap of a federal volume limitation act and written notice is provided to the issuer.

Any executive order made by the governor under this section must, to the extent possible, comply with the following requirements:

(a) If 501(c)(3) bonds are excluded from the volume cap in a federal volume limitation act, any allocation made under section 474A.12 must be canceled, the provisions of section 474A.12 will no longer be in force and effect, any unrefunded deposit made with the department under section 474A.12 shall be refunded to the issuer within 30 days of the cancellation and any excess issuance authority previously set aside under section 474A.12 for 501(c)(3) bonds shall, to the extent the exclusion of the 501(c)(3) bonds increases the amount of the governmental volume cap, be added on a pro rata basis to the amount of the governmental volume cap allocated to (1) state issuers under section 474A.08, subdivision 1, clause (1); (2) entitlement cities under section 474A.08, subdivision 1, clause (2); and (3) to the pool under section 474A.03, subdivision 2, clause (3).

(b) If obligations for multifamily housing projects, or certain kinds thereof, are excluded from the volume cap in a federal volume limitation act, allocations granted

for the projects are canceled and the commissioner shall refund any deposits for the projects within 30 days of cancellation. No adjustment shall be made in the allocation of the governmental volume cap except as provided under section 474A.03, subdivision 3.

**History:** 1986 c 465 art 1 s 27

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 27, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

### 474A.20 STATE CERTIFICATION.

The commissioner of the department is designated as the state official to provide any preissuance or postissuance certification required by a federal volume limitation act.

**History:** 1986 c 465 art 1 s 28

**NOTE:** This section, as added by Laws 1986, chapter 465, article 1, section 28, is repealed July 1, 1987. See Laws 1986, chapter 465, article 1, section 32.

### 474A.21 APPROPRIATION; RECEIPTS.

Any fees collected by the department under sections 474A.01 to 474A.21 must be deposited in the general fund. The amount necessary to refund application deposits is appropriated to the department from the general fund for that purpose.

**History:** 1986 c 465 art 1 s 29