

## CHAPTER 462A

## HOUSING FINANCE AGENCY LAW OF 1971

462A.03	Definitions.	462A.21	Housing development fund; advances, use repayment.
462A.04	Housing finance agency.	462A.221	Definitions.
462A.05	Specific powers of the agency.	462A.222	Low-income housing credits.
462A.06	General powers of the agency.	462A.223	Minnesota housing finance agency; designated agency.
462A.08	Bonds and notes; purposes, terms, approval.	462A.225	State register notice.
462A.18	Moneys of agency.		
462A.20	Housing development fund; creation, sources.		

**462A.03 DEFINITIONS.**

*[For text of subs 1 to 13, see M.S.1986]*

Subd. 14. "Federal housing assistance supplements" means all funds or certificates of tax credit or exemption, including mortgage credit certificates, or low-income housing credits, 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.

*[For text of subs 15 to 19, see M.S.1986]*

**History:** 1987 c 350 s 1

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

*[For text of subs 1 to 7, see M.S.1986]*

Subd. 8. The agency shall be under the administrative control of an executive director which office is established. The executive director 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 the executive director 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 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.

*[For text of subs 8a and 9, see M.S.1986]*

**History:** 1987 c 384 art 2 s 97

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

*[For text of subs 1 to 13, see M.S.1986]*

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 the owner's housing cost without expending an unreasonable portion of the owner's 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 under this subdivision 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.

*[For text of subs 14a to 17, see M.S.1986]*

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 chapter 14, 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.

*[For text of subs 18a to 20, see M.S.1986]*

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 full or partial 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.

*[For text of subs 22 to 24, see M.S.1986]*

Subd. 25. The agency, in its own name or in conjunction with other housing sponsors as a joint venturer, partner, shareholder, or member, may, subject to the provisions of subdivision 27, clause (1) acquire, rehabilitate, or lease from private or public parties, housing designed and planned to be sold or rented at prices that low- and moderate-income persons and families can afford, and (2) rent or otherwise dispose of that housing to persons and families of low and moderate income or to housing sponsors to rent or sell the property to those persons and families. The agency may charge rents for the use of the residential housing facilities acquired, rehabilitated, or

leased under this subdivision in amounts sufficient to comply with any agreements of the agency, whether in connection with the issuance of bonds or otherwise, including rent in amounts sufficient for reimbursement of all costs of financing by the agency and the payment of those service charges and insurance premiums that the agency determines to be reasonable.

Subd. 26. It may, when the agency determines it is necessary or desirable to carry out its purposes and to exercise any or all of the powers conferred upon it under sections 462A.01 to 462A.24, and subject to the provisions of subdivision 27, form or consent to the formation of one or more corporations under the Minnesota nonprofit corporation act, as amended, or under other laws of this state. The agency may be a member of the corporations, and the members and employees of the agency from time to time may be members of the board of directors or officers of the corporations. The agency may enter into agreements with them providing for the agency to approve various aspects of their operations. The agency may capitalize the corporations and may acquire all or a part of the corporations' share or member certificates. The agency may require that it approve aspects of the operation of the corporations including the corporations' articles of incorporation or bylaws, directors, projects and expenditures, and the sale or conveyance of projects, and the issuance of obligations. The agency may agree to and may take title to property of the corporations upon their dissolution.

Subd. 27. The agency, or the corporations referred to in subdivision 26, may acquire property or property interests under subdivisions 25 and 26 and section 462A.06, subdivision 7, for the following purposes: (1) to protect a loan or grant in which the agency or corporation has an interest; or (2) to preserve for the use of low- and moderate-income persons or families multifamily housing, previously financed by the agency, which is benefited by federal housing assistance payments or other rental subsidy or interest reduction contracts. Property or property interests acquired for the purpose specified in clause (1) may be acquired by foreclosure, deed in lieu of foreclosure, or otherwise.

Multifamily property acquired as provided in clause (2) must be managed on a fee basis by an entity other than the agency or corporation. The agency or corporation may manage the property on a temporary basis until an agreement is entered into with another entity to manage the property. The agency or corporation shall make the property available for sale at a purchase price and on terms that are mutually agreeable to the parties.

Subd. 28. **Grants for housing for low-income persons living alone.** The agency may make grants for residential housing to be used by low-income persons living alone whose annual gross income does not exceed 150 percent of the poverty line as updated by the United States Office of Management and Budget. The grants may be made to cities, joint powers boards established by two or more cities, housing and redevelopment authorities created under sections 462.415 to 462.705, or nonprofit entities as defined by the agency. The occupants of the residential housing must be offered a written lease that complies with section 325G.31, offers the occupants the option to renew, and prohibits eviction of an occupant without good cause. Grants under this subdivision must not exceed 50 percent of the development costs for the residential housing, and must not be made for any residential housing that requires the occupants to accept board as well as lodging. In making grants, the agency shall determine the circumstances, terms, and conditions under which all or part of the grant will be repaid and the appropriate security if repayment is required.

**History:** 1987 c 350 s 2-6; 1987 c 384 art 2 s 98; 1987 c 404 s 175

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

*[For text of subs 1 to 6, see M.S.1986]*

Subd. 7. It may, subject to the provisions of section 462A.05, subdivision 27, ~~clause (1)~~ acquire real or personal property, or an interest therein, including partnership shares in housing-related partnerships, on either a temporary or long-term basis

in its own name, by purchase, exchange, gift, assignment, transfer, foreclosure, deed in lieu of foreclosure, lease, assignment of lease or otherwise, including rights or easements in real property; (2) own, hold, manage, operate, clear, improve, and rehabilitate real or personal property; and (3) sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property, or any interest in that property, or mortgage lien or security interest owned by it or under its control, custody, or in its possession and release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it, and do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law.

*[For text of subs 8 to 11, see M.S.1986]*

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

**History:** 1987 c 350 s 7,8

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

Subdivision 1. The agency from time to time may issue its 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.

*[For text of subd 2, see M.S.1986]*

Subd. 3. All notes or bonds issued under this section are securities as defined in section 336.8-102 and may be issued as certificated securities or as uncertificated securities. Certificated securities may be issued in bearer or registered form. The agency may perform all actions that are permitted or required of issuers of securities under sections 336.8-101 to 336.8-408. If notes or bonds are issued as uncertificated securities, and this chapter or other law requires or permits the notes or bonds to contain a statement or recital, whether on their face or otherwise, it is sufficient compliance with the law that the statement or recital is contained in the transaction statement or in a resolution or other instrument that is made a part of the note or bond by reference in the transaction statement as provided in section 336.8-202. All notes and bonds so issued may be either general obligations of the agency, secured by its full faith and credit, and payable out of any money, assets, or revenues of the agency, subject to the provisions of resolutions or indentures pledging and appropriating particular money, assets, or revenues to particular notes or bonds, or limited obligations of the agency not secured by its full faith and credit, and payable solely from those money, assets, or revenues of the agency as may be authorized by resolution or indenture.

**History:** 1987 c 350 s 9,10

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

*[For text of subd 1, see M.S.1986]*

Subd. 2. **Contracts and security.** Notwithstanding the provisions of this section, the agency shall have power to contract with the holders of any of its notes or bonds, as to the custody, collection, securing, investment, and payment of any money of the agency, or any money held in trust or otherwise for the payment of notes or bonds, and to carry out such contract. Money 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 money may be

secured in the same manner as money of the agency, and all banks and trust companies are authorized to give such security for such deposits. All money so paid to the state treasurer as agent of the agency, from whatever source, are appropriated to the agency. The agency's notes and bonds are not subject to section 16B.06.

*[For text of subd 3, see M.S.1986]*

**History:** 1987 c 350 s 11

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

*[For text of subds 1 and 2, see M.S.1986]*

Subd. 3. Whenever any money is 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 money 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 no money appropriated for the purpose of agency loan programs may be transferred to an account to be used for making grants, except that money appropriated for the purpose of section 462A.05, subdivision 14a, may be transferred for the purpose of section 462A.05, subdivision 15a.

**History:** 1987 c 384 art 1 s 39

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

*[For text of subds 1 to 4j, see M.S.1986]*

Subd. 4k. **Housing development fund.** The agency may make grants for residential housing for low-income persons under section 462A.05, subdivision 28, from funds specifically appropriated by the legislature for that purpose and may pay the costs and expenses for the development and operation of the program.

*[For text of subds 5 to 13, see M.S.1986]*

**History:** 1987 c 404 s 176

#### **462A.221 DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of sections 462A.221 to 462A.225, the following terms have the meaning given them.

Subd. 2. **City.** "City" means a statutory or home rule charter city.

Subd. 3. **Housing and redevelopment authority.** "Housing and redevelopment authority" means a housing and redevelopment authority established pursuant to section 462.425, or other law, or any other municipal department, agency, or authority which exercises the powers of a housing and redevelopment authority pursuant to section 462.425 or other law.

**History:** 1987 c 350 s 12

#### **462A.222 LOW-INCOME HOUSING CREDITS.**

Subdivision 1. **Credit reservations.** The agency shall reserve a portion of the annual state ceiling for low-income housing credits provided under section 42 of the Internal Revenue Code of 1986 to (1) cities with a population of at least 50,000 that have a housing and redevelopment authority; (2) cities located in three or more counties that have a housing and redevelopment authority; and (3) counties with a population of 100,000 or more that have a housing and redevelopment authority. A city or county is eligible to receive a reserved portion of the state ceiling under this subdivision if it submits a written request to the agency within 45 days after June 2, 1987, to act as a designated housing credit agency as provided in section 42 of the Internal Revenue Code of 1986. A city or county may designate its housing and redevelopment authority

as the agency to receive reserved low-income housing credits on behalf of the city or county. The city of Minneapolis or the city of Saint Paul may designate the Minneapolis/Saint Paul housing finance board to receive reserved low-income housing credits on behalf of each city.

Subd. 2. **Credit formula.** The agency shall reserve to each eligible city and county an amount equal to the greater of (1) the product obtained by multiplying \$1.6875 by the population of the city or county, or (2) 90 percent of the total state ceiling for low-income housing credits, multiplied by a fraction that has as its numerator the number of rental units located within the city or county and that has as its denominator the total number of rental units located within the state. For purposes of this subdivision, the state demographer shall provide population and rental unit estimates to the agency.

Subd. 3. **Return of reserved credits.** Unused portions of the state ceiling for low-income housing credits reserved to cities and counties for allocation may be returned at any time to the agency for allocation. On or before October 1 of each calendar year, each city and county acting as a housing credit agency, or the Minneapolis/Saint Paul housing finance board, must submit a written notice to the agency of the portion of the low-income housing credit ceiling reserved to it which has not been allocated. The unallocated credit must then be allocated by the agency as provided in section 462A.223.

**History:** 1987 c 350 s 13

#### 462A.223 MINNESOTA HOUSING FINANCE AGENCY; DESIGNATED AGENCY.

Subdivision 1. **Credits to qualified nonprofit organizations.** The agency is designated as a housing credit agency with authority to provide low-income housing credits for projects involving qualified nonprofit organizations under sections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986. The agency shall provide the ten percent minimum amount of the state ceiling required by section 42 of the Internal Revenue Code of 1986 for application to such projects.

Subd. 2. **Designated agency.** The agency is designated as a housing credit agency to allocate the portion of the state ceiling for low-income housing credits (1) not reserved to cities and counties under section 462A.222; (2) not accepted for allocation by eligible cities and counties; (3) returned to the agency for allocation; and (4) not otherwise reserved to the agency for allocation under subdivision 1. Low-income housing credits shall be allocated by the agency on a statewide basis. The agency shall make no allocation for projects located within the jurisdiction of the cities or counties that have received credits under section 462A.222, subdivision 1, until the amounts reserved to the cities and counties for allocation have been allocated or returned to the agency for allocation.

**History:** 1987 c 350 s 14

#### 462A.225 STATE REGISTER NOTICE.

The agency shall publish in the State Register all data relating to the state ceiling, state demographer population and rental unit estimates, and other information or procedures specified in section 42 of the Internal Revenue Code of 1986, applicable United States Treasury Department regulations, and this subdivision, that the agency considers pertinent to the distribution of low-income housing credits. Publications under this section are not subject to chapter 14.

**History:** 1987 c 350 s 15