

STATE OF MINNESOTA

MINNESOTA HOUSING FINANCE AGENCY

In the Matter of the Proposed Adoption of
Rules of the Minnesota Housing Finance
Agency Governing the Accessory Apartment
Loan Program

Statement of Need
and Reasonableness

4900.0581

This part sets forth definitions for the purposes of parts 4900.0581 to 4900.0584.

Subp. 2 Accessory Apartment Loan is defined as a loan used to finance the construction of an additional dwelling unit within a structure or the improvement of up to two rental dwelling units in a structure. The definition is necessary to clarify the eligible uses for funds expended under this program. The limitations are reasonable because the purpose of the program is to demonstrate the usefulness of excess space for rental purposes within single family homes.

Subp. 3 The definition of Borrower provides a single word to describe either one person or several persons who receive an accessory apartment loan.

Subp. 4 Dwelling Unit is defined as a self-contained housing unit with cooking, sleeping and bathroom facilities. This definition is necessary because not all housing units contain all of the facilities listed. The limitation is reasonable because the program will be financed with the proceeds of tax-exempt bonds. The regulations governing such bonds allow the financing only of dwelling units which contain all of the facilities listed above.

Subp. 5 Rental Dwelling Unit is defined as a dwelling occupied by a party other than the owner and for which the owner receives rent. This definition is necessary in order to clarify references to specific portions of eligible structures throughout parts 4900.0581 to 4900.0584.

Subp. 6 Structure is defined as a single-family residence that satisfies the eligibility requirements of part 4900.0582, subp. 5. The necessity of these requirements will be discussed in that section of this statement.

4900.0582

This part establishes eligibility criteria for the borrower and the property in the Accessory Apartment Loan Program.

Subp. 1 This subpart establishes the requirement that the borrower must have at least a one-third interest in the property to be improved. This requirement is necessary because the agency will insure all accessory apartment loans under the FHA Title I program. The ownership requirement is a condition for such insurance.

Subp. 2 This subpart specifies that at least one of the borrowers must occupy the structure to be improved as their principal residence. This requirement is necessary because it is a requirement of the federal regulations which govern the use of tax-exempt bond proceeds, which will be used to fund this program.

Subp. 3 This subpart establishes that the borrower must be a reasonable credit risk. This requirement is reasonable because the agency must warrant to its bond holders that it uses normal and prudent underwriting standards in accepting loans for its portfolio.

Subp. 4 This subpart establishes two separate standards by which the borrower may establish eligibility for the program. It is necessary to establish two standards because the agency intends to make loans available both to owners who are themselves of low and moderate income and to owners who are not of low and moderate income, but who will make the rental dwelling unit available at rates affordable to low and moderate income households.

The first of these standards, set forth in paragraph A, requires that the borrower be a person or household of low and moderate income as defined in part 4900.0010, subpart 23, paragraph E (Home Improvement Loan Program). This standard is reasonable because loans will be provided to borrowers of accessory apartment loans at the same rates and conditions as those offered to borrowers of home improvement loans.

The second of these standards, set forth in paragraph B, requires that, if the borrower does not qualify under the provisions of paragraph A, the accessory apartment unit must be rented at a rate less than a specified rent index for at least one year. This provision is necessary so that the agency may fulfill its purpose of providing housing for low and moderate income households. The rent index specified is one which is determined by the federal Department of Housing and Urban Development to be affordable to low and moderate income households and which is periodically adjusted for inflation.

Subp. 5 This subpart specifies certain eligibility requirements relating to age of the property and compliance with zoning ordinances.

The first paragraph specifies that, upon completion of the work financed, the structure must be in compliance with applicable zoning ordinances. This is a reasonable requirement because this program will generally have the effect of changing the number of units within the structure. Since the number of units is one of the primary concerns of zoning ordinances, it is essential that this item be addressed.

The second paragraph specifies that a structure owned by a borrower who qualifies by virtue of being of low and moderate income must have been completed for at least 90 days. This is a requirement of the FHA Title I insurance program which will be used to insure these loans.

The third paragraph specifies that a structure owned by a borrower who is not of low and moderate income must be at least 15 years old. This provision is necessary because the portion of the agency statute which authorized loans to owners of rental property without regard to income of the owner restricts such loans to properties which are at least 15 years old.

4900.0583

This part establishes standards for improvements eligible to be financed with the proceeds of accessory apartment loans.

Subp. 1 This subpart requires that all improvements must be permanent general improvements. This requirement is necessary because it is a requirement of the FHA Title I insurance program, under which these loans will be insured.

Subp. 2 This subpart sets forth conditions on the uses of the loan proceeds based on the number units in the structure at the time of loan application.

Paragraph A establishes that, for a single-family residence, not more than one additional dwelling unit may be constructed. This restriction is reasonable because the maximum loan amount, as established by FHA Title I requirements, is \$15,000. Based on cost estimates compiled by the agency in a study of accessory apartments, it is unlikely that two rental dwelling units could be constructed within most structures within the \$15,000 loan amount limit.

Paragraph B establishes that, for structures with one or two rental dwelling units, loan proceeds may be used only to bring the structure into compliance with local zoning and building codes. This provision is reasonable because the primary purpose of the program is to promote the construction of new rental dwelling units as set forth in paragraph A. However, a study conducted by the agency shows that many existing accessory apartment units are not in compliance with applicable codes. It is therefore reasonable to also provide financing to make these existing units into safe, habitable and legally occupiable units.

The final paragraph includes language regarding individual septic systems which is required by the FHA Title I insurance regulations.

Subp. 3 This subpart requires that all rental dwelling units constructed or improved with the proceeds of an accessory apartment loan must be in compliance with the state energy conservation standards for rental housing. This requirement is reasonable because these standards are mandatory for all residential rental properties in Minnesota.

Subp. 4 This subpart establishes a completion deadline for improvements financed with an accessory apartment loan. This standard is a requirement of the FHA Title I insurance program.

4900.0584

This part sets forth several additional standards which apply to accessory apartment loans.

Subp. 1 This subpart states that funds for accessory apartments must not be available from private lenders or equivalent terms and conditions. This is a provision contained in the agency statute.

Subp. 2 This subpart requires that all construction must be completed in compliance with applicable codes. This is a provision contained in the agency statute.

Subp. 3 This subpart requires an agency-approved warranty for all workmanship and materials. This is a provision contained in the agency statute.

The Agency is cognizant of the provisions of Section 14.115 of the Minnesota Statutes, entitled Small Business Considerations in Rulemaking, however, the proposed rules do not establish any compliance or reporting requirements, design or operational standards, or directly affect the way any business must operate. Further, to the extent the proposed rules may have an indirect effect on small businesses, the effect is to make funds

available for the creation of accessory apartments more readily available, and, as a result, the proposed rule has no negative effect on small businesses. Therefore, the provisions contained in Minn. Stat §14.115 (1983 Supp.) do not apply to the proposed rules discussed herein.