Minnesota Housing Finance Agency

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*Equal Opportunity Housing and Equal Opportunity Employment*

# Legislative Summary 2008

Set forth below is a summary of the housing related legislation enacted during the 2008 session. Despite the short legislative session and a nearly $1 billion budget deficit, Minnesota Housing received only a small appropriation reduction and all its Agency initiatives passed.

## **Capital Investment (Bonding)** (Chapter 179)

### Nonprofit Housing Bonds for Permanent Supportive Housing (Chapter 179, Sections 50-51)

Section 50 authorizes the Agency to establish a nonprofit housing bond account as a separate account within the housing development fund. Section 51 authorizes a standing appropriation to cover the debt service on $30 million of 501(c)(3) bonds for permanent supportive housing. The nonprofit housing bonds may be issued for the purpose of making loans to finance the costs of construction, acquisition, preservation and rehabilitation of permanent supportive housing. Debt service shall not exceed $2.4 million annually for 20 years.

### Publicly Owned Housing for Homeless (Chapter 179, Section 23)

Section 23 of the capital investment bill appropriates $1 million in GO bond proceeds to the Minnesota Housing Finance Agency for loans or grants to publicly owned housing, including emergency shelters, temporary or transitional housing, or rental housing for long-term homeless.

### Land Trust Stakeholder Consultation and Report (Chapter 179, Section 72)

Section 72 directs the Housing Finance Agency to consult with land trust stakeholders to consider the role of land trusts in addressing the effects of residential mortgage foreclosures. The group must consider the use of 501(c)(3) bonds, the community activity set aside (CASA) program, and alternative tax classifications for neighborhood land trust properties. The Agency will report the results and recommendations to the legislature by January 1, 2009.

**Supplemental Budget Appropriations** (Chapter 363) – The supplemental budget makes changes to the biennial budget to address the fiscal year 2009 deficit and to prepare for the expected deficit in fiscal years 2010-2011. The Agency received a small appropriation reduction and an increase in its debt ceiling. The initiative to End Long-term Homelessness received appropriation funding in the Department of Veterans Affairs and the Department of Human Services.

Appropriation Reduction (Chapter 363, Article 10, section 7)
Section 7 reduces the appropriation to the Housing Finance Agency by $200,000 for fiscal year 2009. This is a one-time reduction and the legislation does not indicate which program should be reduced. The Governor's Supplemental Budget did not recommend a reduction for the Housing Finance Agency.

Debt Ceiling Increase (Chapter 363, Article 10, Section 23)
Section 23 increases the Housing Finance Agency's debt ceiling from $3 billion to $5 billion. The provision was also passed in the Omnibus Economic Development Policy legislation, Chapter 300. The debt is a legal obligation of the Agency, not the State. The Agency's current outstanding debt is only $400 million below the ceiling and is expected to the reach the ceiling sometime in early 2009. Another increase is not projected for at least seven years.

Veterans Homelessness Assistance (Chapter 363, Article 8, Section 3)
A $250,000 appropriation in fiscal year 2009 was added to the base funding of the Minnesota Assistance Council for Veterans to assist veterans and their families affected by homelessness. The additional money will increase outreach and direct assistance in the form of rental assistance, mortgage assistance, utilities and transportation.

Housing Access Grant (Chapter 363, Article 15, Section 5)
Housing Access Grant Appropriation (Chapter 363, Article 18, Section 3)
DHS was appropriated $250,000 in fiscal year 2009 to award competitive grants to agencies to assist individuals with disabilities eligible for home and community-based services to access housing. The grants may include, but are not limited to: assessment to assure suitability of housing, accompanying an individual to look for housing, filling out applications and rental agreements, meeting with landlords, helping with Section 8 or other program applications, helping to develop a budget, obtaining furniture and household goods, and assisting with any problems that may arise with housing.

Long-Term Homeless Supportive Services (Chapter 363, Article 18, Section 3)
DHS was appropriated $505,000 of one-time money in fiscal year 2009 for Long-Term Homeless Services Grants, comprised of $145,000 from the general fund and $360,000 from TANF, to continue the Group Residential Housing demonstration project administered by Hearth Connection. This is in addition to the one-time $2,000,000

appropriation in fiscal year 2008, but still is short of the $3,000,000 requested for the biennium to fund Long-Term Homeless Supportive Services.

Despite this one-time increase of $505,000 for long-term homeless services grants and the housing access grant, the Department of Human Services received a reduction of 1.8% to general fund grants. This decrease results in a base-level reduction of $90,000 to Long-Term Homeless Service Grants starting in fiscal year 2009.

**Omnibus Tax** (Chapter 366, Articles 5-7) - This bill makes changes to the tax code. The major housing related provisions are addressed below. Article 5, sections 19 and 38, relate to tax-exempt bond allocations. These provisions were added at the request of state and local issuers of tax-exempt bonds for housing in anticipation of pending federal legislation to temporarily increase the bond volume cap as a response to the foreclosure crisis. Both provisions are technical and make no change to policy.

Temporary Increase in Annual Volume Cap (Chapter 366, Article 5)
Article 5, section 38 provides the mechanism to allocate bonding authority that is not contemplated as part of the normal per capita volume cap. Congress is considering a one-time increase of $10 billion in tax-exempt bonding authority for housing to help address the foreclosure crisis. Minnesota's share of the anticipated increase is expected to be about $170 million. The temporary increase would be available for refinancing, in addition to first time homebuyers, and is a critical tool for preventing additional foreclosures.

Rental Housing Clarification (Chapter 366, Article 5)
Article 5, section 19 clarifies language to deem federally assisted housing projects as meeting the HUD fair market rent requirements, which was the original policy intent.

Participation in Crime-Free Multihousing Program (Chapter 366, Article 6)
Article 6, section 48 makes a special provision for the lower property tax rate qualification for rental housing in Brooklyn Park. It requires rental properties in Brooklyn Park to participate in the Crime-free Multihousing program in order to be eligible for the lower tax rate on income and rent restricted properties.

Construction Materials for Low-Income Housing Projects (Chapter 366, Article 7)
Article 7, section 4 expands slightly the exemption from sales tax on construction materials for affordable rental housing to developments in which the managing partner is a public housing authority or a nonprofit organization. This provision is not effective until fiscal year 2010.

**Omnibus Technical Tax** (Chapter 154, Article 2)
Section 10 changes provisions for low-income rental property classified as class 4d. Properties are eligible for 4d classification if at least 20 percent of the units in the rental housing property meet the rent income restrictions. Under prior law, 75 percent of the

units needed to meet the income restrictions to be eligible for the lower rate. Properties that have rents and income restrictions due to financing from local units of government are eligible for the 4d classification.

**Natural Disaster Assistance Procedures Established For State Agencies** (Chapter 247)
Effective August 1, 2008, natural disaster assistance procedures are established for state agencies. The legislation provides boilerplate language for future disaster responses and establishes a policy of not replacing federal assistance with state money.

**Community Consortium Demonstration** (Chapter 338, Section 3)
Effective July 1, 2009, the Department of Human Services, in cooperation with the Health and Housing Finance agencies, will implement a three-year demonstration project for older adult services community consortiums. The community consortium demonstration projects are intended to accelerate the development of community based services by providing flexibility in the use and distribution of funds within each demonstration site. To the extent that the Housing Finance Agency funds projects to create or preserve affordable housing options for older adults, the commissioner shall give priority to financially feasible projects proposed or supported by selected community consortiums. Recommendations based on preliminary findings are due to the legislature by November 15, 2011. A final report must be provided to the legislature by January 15, 2013.

**Energy Improvement Investment Program Created** (Chapter 356)
Section 7 establishes the Microenergy Loan Program in the Department of Commerce and names the Housing Finance Agency as a partner in administering the loans. The program requires and provides for the Commissioner of Commerce to develop, implement and administer a microenergy loan program funded through revenue bonds, issued by the Department of Finance. These loans are intended to assist cities, housing and redevelopment authorities, non-profit developers and individual homeowners with low-interest financing for small scale renewable energy installations and cost-effective conservation improvements identified in an energy efficiency audit.

Section 14 requires most state agencies who administer loan or grants to determine their potential to promote the green economy. The Housing Finance Agency will assess these programs and submit to the Commissioner of Commerce a plan to advance the green economy by November 15, 2008.

**Foreclosure Initiatives**

Mortgage Foreclosure Prevention Assistance Increase (Chapter 362)
An agency initiative, the financial assistance portion of the Mortgage Foreclosure Prevention Assistance Program is changed from a cap of $5,500 to a formula indexed to the area median monthly owner costs. The cap is now changed to an amount equal to 110 percent of the greater of the state or metropolitan statistical area median monthly

owner cost multiplied by six. Although the amount per household for 2008 increases to $10,718 in the Minneapolis-St. Paul metropolitan area and $9,478 in Greater Minnesota, the fund is augmented by a recent $500,000 contribution by Marquette Bank.

Other Foreclosure Initiatives

More than 20 foreclosure-related initiatives were introduced this legislative session. In addition to the increase in mortgage foreclosure prevention assistance, a dozen other foreclosure-related initiatives passed, as described below. The Minnesota Subprime Borrower Relief Act 2008, Chapter 352, provided a deferment of the sheriff's sale in limited circumstances but was vetoed by the governor on May 29, 2008.

Expungement of Eviction Actions (Chapter 174)

Courts are required to expunge eviction actions if the tenant either vacated the property before the end of the redemption period or never received notice to vacate.

Lease After Foreclosure Notice or Contract for Deed Cancellation (Chapter 177)

The time period is limited to two months for which a landlord may lease a property when a cancellation of contract of deed or foreclosure notice has been received. Notice must be given that the landlord has received a cancellation or foreclosure notice before the lease may be entered into. Tenants are authorized to withhold payment or rent in the last month of tenancy when it is the last month of the cancellation or redemption period. The minimum time for a notice to vacate for a tenant who occupies the property at the time of the expiration of the redemption or cancellation period is increased from one month to two months.

Shortened Redemption Period for Abandoned Property (Chapter 178)

The failure of the defendant to appear at the hearing is conclusive proof of abandonment of the property, if the service of process requirements are met, and reduces the redemption period to five weeks from six months.

Foreclosure Data (Chapter 238)

A variety of data gathering provisions are implemented related to foreclosures, which includes specific information on foreclosure data collection, a data working group and required report, and electronic recording provisions. Foreclosure data must now include the property address, tax parcel ID, mortgage transaction agent, servicer and lender. The working group will study the development of a statewide foreclosure data collection and reporting system and will submit a report with recommendations to the legislature by February 15, 2009.

Utility Notices and Payment (Chapter 253 and 313)

Chapter 253 requires utility companies to provide the city a notice when a customer's heat source is disconnected, which enables a community to better monitor vacant properties and potentially prevent burst pipes in the winter. Chapter 313 modifies the rights of tenants to pay utility bills and allows tenants to assume responsibility as the

customer of record for utility payments in a residential building with less than five units. This enables tenants to maintain utilities in the event a landlord stops paying utility bills.

Mortgage Lenders and Brokers Regulations (Chapter 240, 241, 273 and 276)

Chapter 240 clarifies the Minnesota Residential Mortgage Originator and Services Licensing Act application and the insurer investment authority. Chapter 241 provides residential mortgage originators and servicers clarification in the verification of a borrower's ability to pay. Chapter 273 modifies lending practices, foreclosure notices, and default regulation relating to manufacture housing. It provides more clarity in the foreclosure process for both manufactured home loan borrowers and lenders. Chapter 276 regulates deed, rates of interest, and mortgage contracts and provides remedies in the case of a mortgage broker's failure to comply with regulations.

Foreclosure Notification (Chapter 341, Article 5)

A preforeclosure or foreclosure prevention counseling service notice is added to the foreclosure process and is applicable to owner-occupied homes of four or fewer units. A foreclosure advice notice is added to the foreclosure process for rental properties. Preforeclosure notice provisions are effective August 1, 2008 and apply to notices of pendency sent on or after that date. Technical changes and clarifications are also included regarding the sheriff's sale, redemption period and reinstatement period.

Changes to the foreclosure process:

- At the same time as the written notice of mortgage default and before the notice of foreclosure pendency, the foreclosing entity (mortgagee) must provide a Preforeclosure Notice to a borrower (mortgagor) with information about authorized foreclosure prevention counseling services and inform the mortgagor that their contact information will be provide to counseling services. The legislation provides a template for the Preforeclosure Notice.
- Within one week of providing foreclosure prevention counseling information to the borrower, the foreclosing entity shall provide the borrower's name, address and telephone to an authorized foreclosure prevention counselor.
- If the appropriate foreclosure prevention counseling service is providing counseling services, it shall send the mortgagee a form to be filled out with the contact information of the negotiating agent, who must be able to negotiate any resolution to the mortgagor's default.
- Within 15 days of receipt of the form, the mortgagee shall return the form to the counseling agency with the negotiating agent information.
- Tenants in a property that is in the foreclosure process are now entitled to a notice of foreclosure with advice for tenants. The language of the notice is provided in the legislation and tenants are encouraged to contact HOME Line or Law Help Minnesota for additional information on tenant rights. No sale of a property with a tenant is invalid for failure to comply with the notice provision.

- In the mortgagor's redemption period, taxes and expenses paid are also regulated by the purchaser.

**Copies of legislation**

To access the specific language of any of the legislation mentioned, go to:

http://www.house.leg.state.mn.us/bills//chapters.asp?/s_year

Scroll down to appropriate chapter number (in the left hand column). Click on the bolded numbers in either the second or third column (HF or SF) and then click on text of bills.

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