

§ 1965.204 Processing prepayment requests and related rent increases.

(a) *Chronological order of steps in processing prepayment requests.* Prior to approving prepayment of an FmHA or its successor agency under Public Law 103-354 MFH loan, FmHA or its successor agency under Public Law 103-354 must determine the eligibility and ability of the borrower to prepay the loan; attempt to keep needed housing in the very low-, low-, and moderate-income market; and ease the transition of tenants that may be affected by the conversion of a federally-financed project to unsubsidized conventional housing. The remainder of this procedure provides the chronological order for the actions to be taken:

(1) Borrower written request for prepayment (§1965.205 and exhibit C of this subpart).

(2) Required notifications (§1965.206 of this subpart).

(3) Evaluation of borrower ability to prepay (§1965.211 and exhibit E of this subpart).

(4) FmHA or its successor agency under Public Law 103-354 incentive offer and borrower decision regarding incentives (§§1965.213 and 1965.214 and exhibits D and E of this subpart).

(5) Evaluation of project need by FmHA or its successor agency under Public Law 103-354 (§1965.210 and exhibit E of this subpart).

(6) Approval of prepayment under exception authority (§1965.215 and exhibit E of this subpart).

(7) Sale to nonprofit organizations or public agencies (§§1965.216 and 1965.217 of this subpart).

(8) Approval of prepayment in the absence of interest in purchase by nonprofit organization of public agency (§§1965.218 and 1965.219 of this subpart).

(9) Actions to be taken in the event of restrictive-use violations (§1965.222 of this subpart).

(10) Relationship of these procedures to other servicing actions (§1965.223 of this subpart).

(11) Prepayment of loans due to advance payments or completion of amortized payments (§1965.224 of this subpart).

(b) *Rent increases resulting from prepayment process.* If rent increases are necessary due to the making of an equity

loan to avert prepayment with or without a transfer, the procedures for tenant notifications and comment will be followed as set forth in paragraphs IV B of exhibit C to subpart C of part 1930 of this chapter. The reason for the rent increase will be shown as "to meet the additional expense incurred in order to avert removal of (name of project) from the FmHA or its successor agency under Public Law 103-354 program."

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§ 1965.205 Borrower request to prepay.

(a) Prior to initiating a formal prepayment request, borrowers considering prepaying their loans should meet with the applicable FmHA or its successor agency under Public Law 103-354 Servicing Office to discuss the prepayment request and the requirements of this procedure. The borrower will be provided with exhibit C of this subpart, to aid in completing the prepayment request package.

(b) At the meeting, the Servicing Office will inform the borrower that the project will be evaluated as unsubsidized conventional multi-family housing for the purposes of determining eligibility for incentives. An appraisal will be completed to determine if any equity exists in the project when valued as unsubsidized conventional multi-family housing. The components of the incentive offer, if any, will be dependent upon the amount of equity as follows:

(1) If the project has equity in excess of the borrower's initial investment, an equity loan and a combination of additional incentives may be considered;

(2) If no equity exists, but it can be shown that the project can be prepaid and operated successfully in the subject market, a combination of incentives not including an equity loan will be considered; or

(3) If, based upon the Servicing Office's knowledge of the market it appears likely the project would not qualify for an equity loan, the Servicing Office should so inform the borrower during the meeting. However, in no instance will the Servicing Office personnel discourage eligible borrowers

from submitting a prepayment request, should the borrower so desire.

(c) Borrowers seeking to prepay MFH loans must submit a complete prepayment request to the Servicing Official at least 180 days in advance of the anticipated prepayment date (unless an exception is granted in accordance with §1965.215 (f)(2) of this subpart). A prepayment request will not be considered complete nor will the 180-day period begin until all of the following items have been submitted:

(1) A written request to prepay the FmHA or its successor agency under Public Law 103-354 loan on a specified date;

(2) Complete and documented information necessary to prepare the prepayment report as outlined in exhibit B of this subpart and to make the required determination needed to develop an incentive offer as outlined in exhibit D of this subpart. Exhibit C of this subpart should be used as guidance for the documentation necessary to complete the request;

(3) Documentation of the borrower's ability to prepay under the conditions specified in the prepayment request. Exhibit C of this subpart should be used as guidance for the documentation necessary;

(4) Certification that the housing will continue to be administered in accordance with Fair Housing Act policies;

(5) A statement from the borrower accepting restrictive-use provisions in the release documents if the borrower wishes to prepay the loan subject to restrictions; and

(6) Evidence that actions required by any applicable State laws related to prepayment have been met.

§ 1965.206 Review of borrower prepayment request by Servicing Office.

The Servicing Office will determine whether the prepayment request is in conformance with §1965.205 of this subpart. Within 15 working days of receipt of a prepayment request, the Servicing Office will take the following actions:

(a) *Return of incomplete requests.* If an incomplete request is submitted, the Servicing Official will return the request to the borrower specifying the additional information needed.

(b) *Receipt of complete requests.* If a complete prepayment request is submitted, the Servicing Official will:

(1) *Acknowledge the request.* Send an acknowledgment letter to the borrower specifying the date of receipt of the complete request and informing the borrower that prepayment commitments should not be finalized until FmHA or its successor agency under Public Law 103-354 issues a letter of approval.

(2) *Notify current tenants.* Notify each tenant household by Certified Mail, Return Receipt Requested, of the receipt of the prepayment request and prepare notices for the borrower to post in public areas of the project. The notices are to remain posted until a final determination is made on the prepayment request or the prepayment offer is withdrawn. The Servicing Official will not wait to determine if submitted information is accurate or if the prepayment will be accepted or denied before notifying tenants. FmHA or its successor agency under Public Law 103-354 Guide Letter 1965-E-2 (available in any FmHA or its successor agency under Public Law 103-354 office) may be used as a guide. The following issues are to be addressed in the letter:

(i) The borrower proposes to prepay the FmHA or its successor agency under Public Law 103-354 loan and remove the housing from the FmHA or its successor agency under Public Law 103-354 program if all prepayment requirements imposed by FmHA or its successor agency under Public Law 103-354 are met;

(ii) FmHA or its successor agency under Public Law 103-354's preliminary determination that the borrower's request to prepay will/will not be approved;

(iii) The likely effect of the prepayment on tenants living at the project. Include:

(A) The level at which rents at the project are projected to be set if prepayment is accepted;

(B) Restrictive-use provisions the borrower has agreed to maintain and the terms of the restrictions;

(C) Whether Section 8 or State or local subsidy will remain with the project; and