

Subparts C–D [Reserved]**Subpart E—Prepayment and Displacement Prevention of Multi-Family Housing Loans**

SOURCE: 58 FR 38931, July 21, 1993, unless otherwise noted.

EFFECTIVE DATE NOTE: At 69 FR 69106, Nov. 26, 2004, subpart E (§§ 1965.201 through 1965.250 and all exhibits) was removed and reserved, effective Feb. 24, 2005.

§ 1965.201 General.

Requests to pay Multi-Family Housing (MFH) loans in full require that certain actions be taken to ensure the affordability of housing for specified tenants for a guaranteed period of time. The requirement applies to all projects, whether or not they are subject to restrictive-use provisions or prohibitions on prepayment. This subpart provides step-by-step guidance for use by Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) and MFH borrowers when prepayment requests are made. The steps outlined are mandated by the Rural Rental Housing Displacement Prevention Provisions of the Housing and Community Development Act of 1987. When a MFH project is subject to multiple FmHA or its successor agency under Public Law 103-354 MFH loans, and the borrower offers prepayment or payment in full for one or more but not all of the MFH loans on the project, the borrower will not be allowed to pay off the most restrictive loan without invoking the prepayment provisions of this subpart, unless the borrower agrees to be bound by the more restrictive provisions for the balance of the time period remaining on the more restrictive loan being paid in full.

§ 1965.202 Definitions.

Affordable housing. Housing with a rent rate which does not create new or increased rent overburden for tenants of prepaying projects.

Displaced tenant. A displaced tenant is a tenant who is either forced to move from a project or a tenant who experiences new or increased rent over-

burden as a result of prepayment of a MFH loan. The new or increased rent overburden may occur at the time of prepayment or at any time in the future restrictive-use provisions are in force.

Income limits. Very low, low, and moderate income are defined in accordance with Appendix 9 of HB-1-3550 (available in any Rural Development office).

Letter of priority entitlement (LOPE). A letter issued by FmHA or its successor agency under Public Law 103-354 to a tenant displaced through a prepayment action that will give the tenant priority on waiting lists at any FmHA or its successor agency under Public Law 103-354 project for which they may qualify.

Local nonprofit corporation or public agency. A public agency or nonprofit corporation which operates primarily in the local community and its trade area. Local nonprofit corporations must have a broad based board reflecting various interests in the community or trade area. A public agency must be organized in accordance with State and local statutes. Either type of organization must include as one of its primary purposes developing or managing low-income housing or community development projects, which meet the requirements of § 1944.211(a)(10)(i) of subpart E of part 1944 of this chapter. County-wide agencies/corporations may meet the definition of local organization if, in the judgment of the District Office, the community's trade area is county-wide. Tenant associations and cooperatives may meet the definition if they are organized as nonprofit organizations.

Market Area. The market area is the community in which the project is located and those outlying rural areas which are impacted by the project (excluding all other established communities).

Minorities. Individuals such as members of the following groups: African-American, not of Hispanic Origin; Hispanic; American Indian or Alaskan Native; and Asian or Pacific Islander. Refer to FmHA or its successor agency under Public Law 103-354 Instruction 1900-A (available in any FmHA or its successor agency under Public Law 103-

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354 office) for further clarification and a description of each group.

Prepayment. A loan which has been paid by the borrower in full, before the loan maturity date. After a prepayment, no FmHA or its successor agency under Public Law 103-354 loan remains on the property and the property is removed from the FmHA or its successor agency under Public Law 103-354 program, although restrictive-use provisions may remain.

Prohibition on prepayment. Loans which may not be prepaid prior to the final amortization date as described in §1965.208 of this subpart.

Protected population. Individuals or families, whether very low, low, or moderate income, who are current tenant or wish to occupy rural rental housing (RRH) or labor housing (LH), and who are protected by a particular restrictive-use provision.

Regional or national nonprofit corporation or public agency. Any public agency or nonprofit corporation meeting the conditions in §1965.216(c) of this subpart, which operates in an area larger than the local community and its trade area, or, if a nonprofit corporation, does not also have a broadly-based membership and board of directors reflecting various interests in the community or trade area, and does not have among its officers or directorate persons or parties with a material interest in (or persons or parties related to any person or party with such an interest) in loans financed under section 515 that have been prepaid. The primary purposes of the organization need not include developing or managing low-income housing or community development projects.

Rent overburden. Shelter costs (rent and anticipated utility costs) exceeding 30 percent of a tenant's adjusted income, or the amount of payment designated by a third-party payor as shelter cost, whichever is greater.

Restrictive-use provisions. Conditions restricting the use of the property to housing for very low-, low- and/or moderate-income tenants, whether or not the FmHA or its successor agency under Public Law 103-354 loan is in force or has been paid in full as described in §1965.209 of this subpart.

Section 8. Tenant rental subsidies as provided under the Housing and Urban Development (HUD) section 8 Housing Assistance Payment Program.

Unsubsidized conventional housing. Housing which receives no interest or project based rent subsidies, and which has no maximum income limits for its residents. When a borrower submits a request for prepayment of the FmHA or its successor agency under Public Law 103-354 loan, the anticipated use of the project will be considered as unsubsidized conventional housing.

[58 FR 38931, July 21, 1993, as amended at 67 FR 78329, Dec. 24, 2002]

§ 1965.203 Nonprofit organization and public agency interest lists.

Nonprofit organizations and public agencies interested in being notified of projects being offered for sale by FmHA or its successor agency under Public Law 103-354 borrowers wishing to prepay should contact FmHA or its successor agency under Public Law 103-354. Local nonprofit and public agencies wishing to purchase projects in one district need only contact the applicable FmHA or its successor agency under Public Law 103-354 District Office. Organizations or agencies interested in one state only should contact the FmHA or its successor agency under Public Law 103-354 State Office. National and regional nonprofit organizations interested in receiving multi-state notifications should contact the FmHA or its successor agency under Public Law 103-354 National Office. Interested organizations should submit their names, addresses, contact persons, and the areas in which they wish to purchase. The notification to FmHA or its successor agency under Public Law 103-354 must be updated annually if the organization wishes to continue to receive notifications of pending prepayments. FmHA or its successor agency under Public Law 103-354 will send notices requesting the update at least 30 days prior to removing the organization's name from the list. The National Office will not verify the eligibility of the organizations requesting notification, but will periodically forward the names of interested organizations to State Offices. The State Office will periodically compile a list of interested