

After considering the Administration's budget, Congress appropriates funding and sends an appropriation bill to the President for review and concurrence. Any increase in funding is beyond the scope of this regulation. No action is taken based upon this comment.

One respondent commented that the borrower would benefit from the program but that the income limits were overly restrictive because they are too low.

*Response:* Section 502(h)(3) of the Housing Act of 1949, as amended, however, requires that the program be delivered only to low- and moderate-income borrowers whose incomes do not exceed 115 percent of the median income of the area as determined by the Secretary. This limit is met if the borrower's income does not exceed 115 percent of the median family income of the United States under Section 751 of Public Law 106-387 (October 28, 2000). In certain areas of Alaska, the limit is 150 percent of the median household income level in the nonmetropolitan areas of the state pursuant to § 754 of Public Law 110-5 (February 15, 2007). No action, therefore, can be taken to exceed the statutory limits.

Two respondents stated that rural areas would greatly benefit from the proposed changes, but that we should have no income limits at all.

*Response:* Once again, the Housing Act of 1949, as amended, requires that the program be delivered only to low- and moderate-income borrowers. By statute, the income limits cannot be made higher than low- and moderate-income levels. No action is taken based upon these comments.

One respondent commented that the Agency should consider the possibility of refinancing any type of loan into our program.

*Response:* Under Section 502(h)(14) of the Housing Act of 1949, as amended, only Section 502 Guarantee and Direct loans may be refinanced with a Section 502 Guarantee. Refinance limitations are statutory and beyond the scope of this rule. No action is taken based upon this comment.

One respondent commented that the Agency is too strict with debt-to-income ratios and should be more flexible in this regard.

*Response:* USDA Rural Development already allows lenders to exceed the baseline ratio thresholds with documented compensating factors and Agency concurrence. This comment also is beyond the scope of this rule making. No action is taken based on this comment.

One respondent stated that borrowers would benefit from the program, but

was hoping RHS would still allow income adjustments for day care expenses, a \$480 deduction for dependents.

*Response:* This proposed income limit change will not affect eligible deductions currently allowed, and the adjustment referred by the commentator will still be permissible. No action is taken based on this comment.

Of the entire 429 comments received, each one had one or more positive comments. There were no negative responses.

Dated: October 23, 2008.

**Russell T. Davis,**

*Administrator, Rural Housing Service.*

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## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3560

#### Direct Multi-Family Housing Loans and Grants

**AGENCY:** Rural Housing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agency is revising its existing regulation governing Rural Rental Housing loans and grants. This action is necessary to provide editorial corrections to 7 CFR Part 3560, subpart N, "Housing Preservation." The intended effect is to ensure the Agency's field offices have correct guidance on processing prepayment requests.

**DATES:** *Effective Date:* November 4, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Cynthia Reese-Foxworth, Senior Loan Specialist, Multi-Family Housing Portfolio Management Division, Office of Rental Housing Preservation, U.S. Department of Agriculture, STOP 0782, 1400 Independence Avenue, SW., Washington, DC 20250, telephone: (202) 720-1940.

**SUPPLEMENTARY INFORMATION:**

#### Classification

This action is not subject to the provisions of Executive Order 12866 since it involves only minor grammatical corrections and clarifications. This action is not published for prior notice and comment under the Administrative Procedure Act since it involves only minor grammatical corrections and clarifications and publication for comment is unnecessary and contrary to the public interest.

### Programs Affected

The Catalog of Federal Domestic Assistance programs impacted by this action are as follows:

10.405—Farm Labor Housing Loans and Grants.

10.415—Rural Rental Housing Loans.

### Intergovernmental Consultation

Programs with Catalog of Federal Domestic Assistance numbers 10.405 and 10.415 are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

### Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) Unless otherwise specifically provided, all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before litigation against the Department is instituted.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, the rule is not subject to the requirements of section 202 and 205 of the UMRA.

### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program."

The Agencies have determined that this final action does not constitute a major Federal action significantly affecting the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required.

#### Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and were assigned OMB control number 0575-0189 in accordance with the Paperwork Reduction Act of 1995. No person is required to respond to a collection of information unless it displays a valid OMB control number. This rule does not impose any new information collection requirements from those approved by OMB.

#### Discussion of Final Rule

On November 26, 2004, Rural Development published an Interim Final Rule which added 7 CFR part 3560, a consolidation of several Rural Development regulations. Since its publication, many comments have been received regarding errors and omissions. In some cases, requirements are referenced that are no longer requirements. With this final rule, the Agency is correcting errors and providing editorial corrections and clarifications to 7 CFR part 3560, subpart N, "Housing Preservation."

#### List of Subjects in 7 CFR Part 3560

Grant programs—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing, Nonprofit organizations.

■ For the reasons set forth in the preamble, chapter XVIII, title 7, of the Code of Federal Regulations is amended as follows:

### PART 3560—DIRECT MULTI-FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3560 continues to read as follows:

Authority: 42 U.S.C. 1480.

#### Subpart N—Housing Preservation

■ 2. Section 3560.653 is amended in paragraph (b)(5) by removing "(MFH)" and by revising paragraphs (b)(4) and (b)(6) to read as follows:

##### § 3560.653 Prepayment requests.

\* \* \* \* \*

(b) \* \* \*

(4) A copy of lease language to be used during the period between the submission date and the final resolution of the prepayment request notifying tenant applicants that the owner of the housing project has submitted a prepayment request to the Agency and explaining the potential effect of the request on the lease.

\* \* \* \* \*

(6) A certification that the borrower has notified all governmental entities involved in providing affordable housing or financial assistance to tenants in the project and that the borrower has provided a statement specifying how long financial assistance from such parties will be provided to tenants after prepayment.

\* \* \* \* \*

##### § 3560.656 [Amended]

■ 3. Section 3560.656 is amended in paragraph (a)(2) by revising the word "affect" to read "effect" and in the introductory text of paragraph (e) by revising the words "At the time the incentive is developed," to read "At the time a specific incentive offer is developed,".

■ 4. Section 3560.658 is amended by removing paragraph (a)(2) and redesignating paragraph (a)(3) as paragraph (a)(2); by redesignating paragraphs (b)(1) through (b)(3) as (b)(2) through (b)(4) respectively; and by revising newly redesignated (a)(2) and by adding a new paragraph (b)(1) to read as follows:

##### § 3560.658. Borrower rejection of the incentive offer.

(a) \* \* \*

(2) If housing opportunities for minorities would be lost as a result of prepayment, the borrower will offer to sell the housing to a qualified nonprofit organization or public body in accordance with § 3560.659.

(b) \* \* \*

(1) If restrictive-use provisions are in place, the borrower will agree to sign

the restrictive-use provisions, as determined by the Agency, and at the end of the restrictive-use period, offer to sell the housing to a qualified nonprofit organization or public body in accordance with § 3560.659.

\* \* \* \* \*

##### § 3650.659 [Amended]

■ 5. Section 3560.659 is amended in paragraph (e)(6) by revising the words "bona fide" to read "good faith".

##### § 3650.662 [Amended]

■ 6. Section 3560.662 is amended in the following paragraphs by revising the references to section 3560.658 as follows:

■ a. In paragraph (a)(1) by revising "§ 3560.658(a)(3)" to read "§ 3560.658(a)(2)";

■ b. In paragraph (b)(2) by revising "§ 3560.658(b)(2)" to read "§ 3560.658(b)(3)";

■ c. In paragraph (b)(4) by revising "§ 3560.658(a)(2)" to read "§ 3560.658(b)(1)"; and

■ d. In paragraph (b)(5) by revising "§ 3560.658(a)(3)" to read "§ 3560.658(a)(2)".

Dated: October 23, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

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### FEDERAL RESERVE SYSTEM

#### 12 CFR Part 204

[Regulation D; Docket No. R-1334]

#### Reserve Requirements of Depository Institutions

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interim final rule.

**SUMMARY:** The Board is revising its interim final rule amending Regulation D, Reserve Requirements of Depository Institutions, to alter the formula by which earnings on excess reserves of depository institutions are calculated. The remainder of the interim final rule, including the period during which comments may be submitted, is unchanged from the interim final rule as published on October 9, 2008.

**DATES:** Effective date is November 4, 2008; applicability date is October 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Sophia H. Allison, Senior Counsel (202/452-3565), Legal Division, or Margaret Gillis DeBoer, Senior Financial Analyst