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DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Parts 3550 and 3555

[Docket No. RHS-22-SFH-0023]

Single Family Housing Section 502 Direct and Guaranteed Manufactured Housing Pilots

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is issuing this notice to waive two regulatory requirements for the Section 502 Direct and Guaranteed Manufactured Housing pilot program. The Agency's intention is to evaluate the existing regulations and remove regulatory barriers to assist eligible applicants with improved ease of use for very low- to moderate-income homeowners seeking to purchase affordable housing. The pilot also supports the current Administration's Housing Supply Action Plan which seeks to boost new financing mechanisms to build and supply quality affordable housing units. This notice briefly discusses the continuation of the existing waivers and provides contact information for additional details about the pilot program.

DATES: The effective date of the two regulatory waivers is [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. The duration of the pilot program is anticipated to continue until [**INSERT DATE TWO YEARS AFTER DATE OF PUBLICATION**], at which time the RHS may extend the pilot program (with or without modifications) or terminate it depending on the workload and resources needed to administer the program, feedback from the public, and the effectiveness of the program. RHS will notify the public whether the pilot program has been extended or terminated.

FOR FURTHER INFORMATION CONTACT: Stephanie Freeman, Finance and Loan Analyst, Policy, Analysis, and Communications Branch, Single Family Housing Guaranteed Loan Division, Rural Development, U.S. Department of Agriculture, Email: stephanie.freeman@usda.gov; Phone: (314) 457-6413 and Jeremy Anderson, Finance and Loan Analyst, Single Family Housing Direct Loan Division, Rural Development, U.S. Department of Agriculture, Email: jeremy.anderson@usda.gov; Phone: (202) 690-3971.

SUPPLEMENTARY INFORMATION:

Background

The RHS is committed to helping improve the economy and quality of life in rural areas by offering a variety of programs. The Agency offers loans, grants, and loan guarantees to help create jobs, expand economic development, and provide critical infrastructure investments. RHS also provides technical assistance loans and grants by partnering with agricultural producers, cooperatives, Indian tribes, non-profits, and other local, state, and federal agencies.

Affordable housing is essential to the vitality of communities in rural America. RD's Single Family Housing Programs give families and individuals the opportunity to purchase, build, repair their existing home, or to refinance their current mortgage under certain criteria. Eligibility for these loans, loan guarantees, or grants is based on income which varies according to the average median income for each eligible rural area.

The Section 502 Direct Loan Program under 7 CFR 3550 assists very low- and low-income applicants obtain decent, safe and sanitary housing in eligible rural areas by providing payment assistance to increase an applicant's repayment ability. The payment assistance is a type of subsidy that reduces the mortgage payment for a short time and is determined by the adjusted family income. There are a number of different factors that determine the applicant's eligibility for this program but at minimum the applicant, as determined in accordance with 7 CFR 3550.53 and 42 U.S.C. 1471, must have an adjusted income that is at or below the applicable low-income

limit for the area where they wish to purchase a home and they must demonstrate a willingness and have the ability to repay debt.

The Section 502 Guaranteed Loan Program, under 7 CFR 3555, provides a 90% loan note guarantee to approved lenders in efforts to provide low- and moderate-income households the opportunity to own adequate, modest, decent, safe and sanitary dwellings as their primary residence in eligible rural areas. Eligible applicants may purchase, build, rehabilitate, improve or relocate a dwelling in an eligible rural area. Applicant eligibility for this program is determined by the lender pursuant to the criteria set forth in 7 CFR 3555, Subpart D.

RHS may authorize limited demonstration programs to test new approaches to offering housing under the statutory authority granted to the Secretary, as set forth in 42 U.S.C. 1476(b), 7 CFR 3550.7 and 7 CFR 3555.2(b). Demonstration programs are time- and scope- limited programs designed to test new approaches and for those reasons, demonstration programs need not be consistent with all regulatory provisions while active.

In 2021, the Agency extended the existing Section 502 Manufactured Housing Pilot program in order to continue assessing the pilots' impact. The first pilot involves financing existing manufactured homes; the second pilot involves the ownership requirement for new energy-efficient manufactured and modular homes in land-lease communities operating on a nonprofit basis. These allowances remain unchanged from any previous extensions of this pilot program. As pilot programs, the number of participating states remain restricted while providing for adequate regional representation.

Continuation of the Existing Manufactured Home Pilot

The Agency is continuing with the existing manufactured housing pilot, which was initially implemented on August 12, 2016, in which RD waived the regulatory restrictions cited in 7 CFR 3550 and 3555 and will finance existing manufactured homes in the pilot states even if the home is not currently financed by RD. Under current regulations, new manufactured homes are eligible for financing through the Section 502 Single Family Housing (SFH) Direct and

Guaranteed Loan Programs. Existing manufactured homes are not eligible unless the home is already financed through RD (7 CFR 3550.52(e)(1); 3550.73(b); 3555.208(b)(3)).

Eligibility Requirements

Approved lenders in the SFH Guaranteed Loan Program do not require additional approval to participate provided the home is in a pilot state. The loan request must be from an eligible applicant, all the pilot conditions listed in this section must be met, and all other program requirements that have not been waived must be met. The following States are included in this pilot: Colorado, Iowa, Louisiana, Michigan, Mississippi, Montana, Nevada, New Hampshire, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The following unit requirements below must be met:

The unit must have been constructed on or after January 1, 2006, in conformance with the Federal Manufactured Home Construction and Safety Standards (FMHCSS), as evidenced by an affixed Housing and Urban Development (HUD) Certification Label and the unit must not have been previously installed on a different homesite, or had any structural alterations to it since construction in the factory, except for porches, decks or other structures which were built to engineered designs or were approved and inspected by local code officials.

The unit inspection is required using one of two methods: Option 1) Form HUD-309, "HUD Manufactured Home Installation Certification and Verification Report" completed in accordance with 24 CFR 3286.511 by a qualified party as follows: A manufactured home or residential building inspector employed by the local authority having jurisdiction over the site of the home, provided that the jurisdiction has a residential code enforcement program; a professional engineer, registered architect, a HUD-accepted Production Inspection Primary Inspection Agency (IPIA) or a Design Approval Primary Inspection Agency (DAPIA), or an International Code Council (ICC) certified inspector. Option 2) Obtain a certification that the foundation design meets the requirements of either HUD Handbook 4930.3G or HUD

Publication 7584, which updated and revised the pre-1996 version of HUD Handbook 4930.3G, "Permanent Foundations Guide for Manufactured Housing (PFGMH)." Certifications referencing either Publication 7584 or Handbook 4930.3G are acceptable. The foundation certification must be from a licensed professional engineer, or registered architect, who is licensed/registered in the state where the manufactured home is located and must attest to compliance with current guidelines of the PFGMH. The certification must be site specific and contain the engineer's or registered architect's signature, seal and/or state license/certification number. This certification can take the place of Form HUD-309.

Guaranteed loan applications submitted under this pilot must be manually submitted and underwritten, however the documents may be submitted through the Guaranteed Underwriting System (GUS). A job aid for this type of submission is available in our USDA LINC Training and Resource Library in the “Loan Origination” tab or directly here: https://www.rd.usda.gov/sites/default/files/linc_manual_submission_job_aid.pdf . Agency staff will need to select "MANUFACTURED (PILOT)" for "Construction Type" in the Property Information section in the Guaranteed Loan System (GLS). This will allow for the proper identification of pilot loans for tracking and monitoring purposes.

Direct loan applications submitted under the pilot are submitted directly to the local RD office. Agency staff will need to select Program Type Code 1014 (very low income) or 1015 (low income) unless the property is located in a persistent poverty county, in which case Program Type Code 1114 (very low income) or 1115 (low income) will be used. In addition, Agency staff will need to select a Construction Type of "Manuf/Home" and a Dwelling Type of "Purchase Old, Refinance, Purchase Old/Repair, or Refinance/Repair" in UniFi. This will allow for the proper identification of pilot loans for tracking and monitoring purposes.

The applicant and property must meet all other criteria set forth in applicable statutes, 7 CFR Part 3550 and HB-1-3550 for Direct loans or 7 CFR Part 3555 and HB-1-3555 for Guaranteed loans, as applicable. These criteria include, but are not limited to, the following: The

unit must have a floor area of not less than 400 square feet; the unit must meet the Comfort Heating and Cooling Certificate Uo (Coefficient of heat transmission) Value Zone for the location; the towing hitch and running gear must have been removed; the manufactured home must be classified and taxed as real estate; the remaining economic life of the property must meet or exceed the 30 year term of the proposed loan; and the unit replacement cost coverage must be equal to the insured value of the improvements or the unpaid principal balance with deductible(s) of up to but not exceeding the greater of $1,000 or one percent (1 %) of the policy.

Continuation of the Ownership Requirement Pilot for Energy Efficient Manufactured and Modular Home Financing in Land-Lease Communities Operating on a Nonprofit Basis

The Agency is continuing with the existing pilot that involves the ownership requirement for new energy-efficient manufactured and modular homes in land-lease communities operating on a nonprofit basis. According to 7 CFR 3550.58(b), a leasehold interest must have an unexpired term that is at least 150 percent of the term of the mortgage for Direct loans. According to 7 CFR 3555.203(b)(3), a leasehold interest must have an unexpired term of at least 45 years from the date of loan closing for a Guaranteed loan.

Eligibility Requirements

Under this pilot, RD will accept a lease with an unexpired term that is at least two years beyond the term of the promissory note in the pilot states. The following States are included in this pilot: California, Michigan, Minnesota, New Hampshire, Oregon, Pennsylvania, Vermont, and Wisconsin. The loan request must be from an eligible applicant, all the pilot conditions must be met, and new manufactured and modular homes must meet the following pilot conditions:

At a minimum, new manufactured and modular homes must be Energy Star compliant and the unexpired term of the lease must be at least two years longer than the mortgage term. While the lease terms in 7 CFR 3550.58(b) and 3555.203(b)(3) could be seen as providing borrowers additional protection, many states have statutes that promulgate fair lease terms and afford protections to residents of land-lease communities.

For the SFH Guaranteed Loan Program, pilot states should consider following the recommendations in HUD's interim guidance related to 24 CFR 3285.312 on the use of frost-free foundations or frost protected shallow foundations.

For the SFH Direct Loan Program, pilot states may use the recommendations from HUD's interim guidance on frost-free or frost-protected shallow foundations in lieu of RD Instruction 1924-A, Exhibit J. Under the HUD interim guidance recommendations, the installer should install all footings and piers below the frost line depth, or for Frost Free Foundations, have a site investigation performed by a soil engineer or geotechnical engineer to verify if the soil condition at each home site is of a non-frost susceptible classification and is well drained. In lieu of a site soil investigation, a layer of washed gravel, or crushed stone, or course or dense sand may be provided to the frost line depth.

For either of these alternatives, subsurface drains need to be provided; or use a Frost Protected Shallow Foundation system that utilizes below ground insulation to protect the soil from freezing with subsurface drains provided at each site. The applicant and property must meet all other criteria set forth in applicable statutes, 7 CFR Part 3550 and HB-1- 3550 for Direct loans or 7 CFR Part 3555 and HB-1-3555 for Guaranteed loans, as applicable. Program Directors should use the tracking tool under the “Energy Efficient Housing” link on the SFH SharePoint tracking site to report loans made under this pilot. **Paperwork Reduction Act**

The regulatory waivers for this pilot contains no new reporting or recordkeeping burdens under OMB control number 0575-0179 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Non-Discrimination Statement

In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual

orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form,* which can be obtained online at https://www.ascr.usda.gov/complaint_filing_cust.html, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) Mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, Washington, D.C. 20250-9410; or (2) Fax: (833) 256-1665 or (202) 690-7442; or (3) Email: Program.Intake@usda.gov.

Authority:

Title V, Section 502 of the Housing Act of 1949, as amended; 42 U.S.C. §1472.

Joaquin Altoro,
Administrator,
Rural Housing Service.
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