



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

[Docket No. RHS-23-SFH-0026]

Single Family Housing Section 502 Direct Loan Program - Community Land Trust Pilot

AGENCY: Rural Housing Service, USDA.

ACTION: Notification of waivers.

SUMMARY: The Rural Housing Service (RHS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), is announcing a pilot for the Section 502 Direct Home Loan program to test alternative eligibility criteria related to community representation for Community Land Trust (CLT) organizations. The Agency intends to evaluate the impact of allowing eligibility criteria other than membership open to all residents of the geographic area which could meet the intent of the statutory requirements for CLTs to have specific community representation. This notification outlines the pilot parameters and provides contact information for additional details about the pilot.

DATES: The effective date of this pilot is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The duration of the pilot is anticipated to continue until December 8, 2025, 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. If the pilot program is extended or terminated early, the RHS will notify the public.

FOR FURTHER INFORMATION CONTACT: Jeremy Anderson, Finance and Loan Analyst, Direct Loan Origination Branch, Single Family Housing Direct Loan Division, Rural Development, U.S. Department of Agriculture, Email: jeremy.anderson@usda.gov; Phone: (202) 302-3092.

SUPPLEMENTARY INFORMATION:

Authority

The RHS Single Family Housing Direct Division administers the Sec. 502 Direct Loan Program under the authority of Section 502 of the Housing Act of 1949, as amended; and operates under 7 CFR 3550, subpart B. Section 506(b) of Title V of the Housing Act of 1949, as amended (42 U.S.C. 1476(b)), permits the Secretary to conduct demonstrations relating to national housing goals. All statutory or regulatory program requirements that are not waived in this document will remain in effect.

Overview

The RHS offers a variety of programs to build or improve housing and essential community facilities in rural areas. The Agency offers loans, grants, and loan guarantees for single- and multifamily housing, child-care centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, housing for farm laborers, and much more. RHS also provides technical assistance loans and grants in partnership with non-profit organizations, Indian Tribes, State and Federal government agencies, and local communities.

The RHS administers the Section 502 Direct Loan Program to assist low- and very low-income applicants who currently do not own adequate housing and cannot obtain other credit the opportunity to acquire, build, rehabilitate, improve, or relocate dwellings in rural areas. Homes financed through the Section 502 Direct loan program can be located on land owned by a Community Land Trust (CLT). CLTs are a growing land management tool used by affordable housing providers nationwide and are recognized for their use of ground leases and/or long-term deed restrictions as mechanisms to achieve lasting affordability. CLTs were traditionally organized as member nonprofits but are increasingly organized as entities without members and/or without strict representation on governing boards, because they meet community accountability standards through other means. Similarly, mission-driven affordable housing

developers other than CLTs use ground leases or deed restrictions to maintain lasting affordability of the housing units developed and initially sold to income-eligible homebuyers to ensure the units remain affordable after the initial sale.

To receive agency supported financing, eligible dwellings located on land owned by a CLT must comply with 7 CFR 3550.72. Additional requirements for a community housing development organization identifying as a CLT are found at 42 USC 1472(a)(3)(B), which also incorporates definitions provided at 42 USC 12704 as described. These requirements include, in part, that a CLT's governing board maintains representation of low-income community residents and, to the extent practicable, low-income beneficiaries. 42 USC 1472(a)(3)(B); 42 USC 12704(6)(B). The Act also requires the CLT to have its corporate membership open to any adult resident of a particular geographic area specified in its bylaws. 42 USC 1472(a)(3)(B)(iv). As written, the community representation requirements are prohibitive for some affordable housing providers also acting as a CLT.

As land prices increase and availability decreases, many affordable housing providers are exploring various model to achieve lasting affordability in the housing stock they contribute to their community, including CLTs, ground leases and long-term deed restrictions. Some affordable housing providers that utilize ground leases do not meet the governing board membership requirements and/or requirement of open corporate membership required of CLTs in the Housing Act of 1949 and are therefore unable to access the Section 502 program for their low to very low-income clients in rural communities when using a land trust ownership model.

To ensure applicants working with affordable housing providers have access to the Section 502 program when using a land trust ownership model, RHS will approve affordable housing providers, under this pilot, that meet the eligibility criteria described in this document. The goal of this pilot is to test the viability of aligning the Section 502 program CLT requirements with affordable housing providers' current strategies to provide lasting affordability in homeownership.

Discussion of the New Section 502 CLT Pilot Regulatory Waivers

RHS has determined that the following two waivers are to be tested under the new pilot (demonstration) program for the Single-Family Housing Section 502 Direct Loan Program under the demonstration program authority provided in Section 506(b) of Title V of the Housing Act of 1949, as amended (42 U.S.C. 1476(b)) and at 7 CFR 3550.7):

1. The first waiver approved for this pilot is for affordable housing providers to be exempt from the requirement that a CLT maintain accountability to low-income community residents with regard to decisions on the design, siting, development, and management of affordable housing through significant representation on the organization's governing board. (42 U.S.C. 1472(a)(3)(B); 42 U.S.C. 12704(6)(B)).

Instead, organizations may propose to the Agency through this pilot, other methods by which the organization will maintain this accountability and ensure low-income community residents are included in these decisions. This could be demonstrated through community meetings, public notice for comment, a community advisory board, etc. Organizations should include detailed information related to the activities it will undertake to ensure community involvement is comparable to the input afforded the organizations board members. The Agency will evaluate these proposals and determine whether they are sufficient to maintain accountability.

2. The second waiver approved for this pilot is for affordable housing providers to be exempt from the requirements that a CLT be a membership organization with its corporate membership open to any adult resident of a particular geographic area specified in the by-laws of the organization (1472(a)(3)(B)(iv))).

Affordable housing providers who meet the eligibility criteria described in this document may request approval to take part in this pilot by providing information sufficient to determine their eligibility as described in this document to the applicable state office. State office information can be found online at – <https://www.rd.usda.gov/browse-state>.

Eligibility Requirements

To be eligible to participate in this pilot, organizations must be a private nonprofit entity, state or local government, Indian tribe or Tribal corporation; that meets all other requirements provided at 7 CFR 3550.72, and at 42 USC 1472(a)(3)(B) , except item (iv), and satisfactorily demonstrates to the Agency the steps they will take to be accountable to low income residences with regard to decisions on the design, siting, development, and management of affordable housing.

Except as specified in this document, affordable housing providers seeking approval as a CLT must abide by all applicable statutory and regulatory requirements. Eligible participants in the Section 502 Direct program must otherwise abide by all statutory requirements and by the regulatory requirements outlined in 7 CFR 3550.

Paperwork Reduction Act

The regulatory waivers for this pilot contain 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

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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, staff office; 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.usda.gov/sites/default/files/documents/ad-3027.pdf>, 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, SW

Washington, D.C. 20250-9410; or

(2) Fax: (833) 256-1665 or (202) 690-7442; or

(3) Email: Program.Intake@usda.gov.

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Yvonne Hsu,
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Rural Housing Service.

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