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24 CFR Part 236

[FR-6439-F-01]

Removal of Obsolete Regulations for Section 236 of the National Housing Act

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, U.S. Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule removes HUD’s obsolete regulations under the Rental and Cooperative Housing for Lower Income Families Program under section 236 of the National Housing Act (“Section 236”), as amended. HUD has determined that the provisions regulating Section 236 insured projects and Section 236 Rental Assistance Payment (“RAP”) projects are obsolete and unnecessary because there are no remaining properties or projects subject to these regulations, and no new agreements are being established under these programs.

DATES: Effective [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR MORE INFORMATION CONTACT: Jennifer Lavorel, Office of Housing, Department of Housing and Urban Development, 451 7th St SW, Room 6180, Washington, D.C. 20410, telephone number 202-708-1112 (this is not a toll-free number) or via email to Jennifer.C.Lavorel@hud.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Background

Created by Congress in 1968, the Section 236 (12 U.S.C. 1715z-1) program authorized HUD to subsidize the interest rate on loans on rental housing projects designed for occupancy by

lower-income families for the purpose of reducing rental costs for such families. Some Section 236 loans were insured by the Federal Housing Administration (FHA) (Section 236 insured projects) and others were/are not insured by FHA but are financed under a State or local program (Section 236 non-insured projects). Section 236 insured and non-insured projects were eligible for refinancing, and HUD is authorized to continue interest reduction payments (IRP) on the successor loan as long as certain conditions, as specified in Housing Notice 2013-25, are met (Section 236 IRP projects). Section 236(n) prohibits the insurance of mortgages under Section 236 after November 30, 1983, except to permit the refinance of a mortgage insured under Section 236, or to finance pursuant to section 236(j)(3), the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under Section 236. HUD is electing not to utilize the authority provided by section 236(j)(3).

Tenants in some Section 236 projects also received Rental Assistance Payments (Section 236 RAP projects). Over the last 50 years, these loans have undergone several preservation transactions to continue serving low- and moderate-income families, such as prepayment of certain Section 236 loans subject to HUD prepayment approval, conversions to Section 8 project based assistance through the Rental Assistance Demonstration (RAD), refinancing using a Federal Housing Administration (FHA) insured mortgage program, and/or securing additional capital financing such as a Low Income Housing Tax Credit (LIHTC) award. Currently, there are no remaining Section 236 insured projects, and all Section 236 RAP contracts have either terminated or converted to Section 8 through RAD, with the RAP program considered inactive. Moreover, HUD has additional mortgage insurance and rental assistance programs available to preserve low-to-moderate income housing and assist lower income tenants.

II. This Final Rule

This final rule removes Section 236 regulations at 24 CFR part 236, subparts A, B, C, and D, because they are obsolete. Regulations in 24 CFR part 236, subparts A, B, and C, apply only to Section 236 insured projects. HUD's portfolio has no remaining Section 236 insured projects.

Regulations in 24 CFR part 236, subpart D, apply only to Section 236 Rental Assistance Payments projects. HUD’s portfolio has no remaining Section 236 RAP projects. Therefore, these subparts are obsolete and can be removed.

III. Justification for Final Rulemaking

In accordance with 24 CFR part 10, it is the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. Part 10 provides for exceptions to the general rule if an agency, for good cause, finds that “notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” (24 CFR 10.1.) The removal of these regulations from the Code of Federal Regulations does not establish or affect substantive policy. This final rule removes obsolete and unnecessary regulatory provisions for programs that are no longer being funded or for operation of programs that has been transferred. Therefore, HUD finds that public notice and comment are unnecessary and contrary to the public interest.

IV. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct

compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531– 1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of UMRA.

Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). .

List of Subjects in 24 CFR Part 236

Grant programs-housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD amends 24 CFR part 236 as follows:

**PART 236 - MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT
FOR RENTAL PROJECTS**

1. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–1, and 1735d; 42 U.S.C. 3535(d).

Subparts A through D – [Removed and Reserved]

2. Remove and reserve subparts A through D, consisting of §§ 236.1 through 236.765.

Julia Gordon,
Assistant Secretary for Housing – Federal Housing Commission

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