



DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3560

[DOCKET #: RHS-25-MFH-0167]

RIN 0575-AD52

Rescinding 30-Day Notification Requirements Related to Eviction Based on Nonpayment of Rent in Multi-Family Housing Direct Properties

AGENCY: Rural Housing Service, Rural Development, U.S. Department of Agriculture (USDA)

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS or the Agency), an agency of the Rural Development (RD) mission area within the U.S. Department of Agriculture (USDA), is issuing this final rule to rescind the regulatory requirement of the minimum 30-day notice for nonpayment of rent before the start of eviction proceedings in Rural Housing Service (RHS) Section 515 and 514 Multi-Family Housing (MFH) properties, and the requirement for borrowers to provide Federal emergency funding information during a Presidentially declared national emergency. The final rule, “30-Day Notification of Nonpayment of Rent in Multi-Family Housing Direct Loan Programs” (30-Day Notice Final Rule), effective on April 24, 2024, introduced additional regulatory oversight for RHS MFH properties that proved unnecessary because compliance with the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) 30 day notice is generally captured by MFH project management requirements. Additionally, the requirement for

the borrower to disseminate information on Federal funding available during a Presidentially declared national emergency will be rescinded, as RHS will distribute the associated information during such circumstances.

DATES: *Effective Date:* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Michael Resnik, Multi-Family Housing Asset Management Division, Rural Housing Service, at michael.resnik@usda.gov, 1400 Independence Avenue SW, Mail Stop 0782, Washington, DC 20250-0782, or call (202) 720-1615.

Other Information: Additional information about Rural Development and its programs is available on the Internet at <https://www.rd.usda.gov/>.

SUPPLEMENTARY INFORMATION:

I. Background

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) requires landlords of certain rental “covered dwellings” to provide tenants with at least 30 days' notice before they must vacate the property due to the nonpayment of rent. “Covered dwellings” are defined as rental units that have a “Federally backed multifamily mortgage loan.” See 15 U.S.C. 9058. Although properties receiving assistance under Section 514, 515, or 516 are considered “covered dwellings,” regulatory action and enforcement by individual agencies was not required for implementation separate from the CARES Act. The CARES Act 30-day notice requirement for nonpayment of rent is still in effect for MFH properties regardless of whether the CARES Act wording is specifically included in the MFH’s regulation.

RHS is also confident the longstanding guidelines and regulations in Section 515 and Section 514 MFH tenant recertification process, which predate the 30-Day Notice Final Rule and the CARES Act, protect its tenants from being evicted less than 30 days from receiving notice of non-payment. These programs have effective tools to prevent eviction based solely on the nonpayment of rent. Tenants with changes in employment or other financial situations may file an interim income certification with the borrower for an income change of \$50 or more. This allows the borrower to receive additional rental subsidy on behalf of the tenant, when funding is available. While waiting for funding, RHS finds that borrowers generally work with tenants on developing a repayment plan when there is not an additional lease violation. This is reflected in the fact that during 2024, total eviction levels among MFH housing units averaged about 0.54 percent, with only 0.04 percent of all evictions being due to only the nonpayment of rent.

In addition, the lease requirements for MFH properties must also comply with State and local laws on eviction notice due to nonpayment of rent. As 7 CFR 3560.5 sets forth, borrowers are required to comply with state law so long as the state law requirement does not conflict with 7 CFR part 3560. The 30-Day Notice Final Rule often caused confusion between RHS regulation requirements and State rental lease laws. Finally, the requirement for the borrower to disseminate information on Federal funding available during a Presidentially declared national emergency proved unduly burdensome. Due to the existing tenant notification requirements on RHS MFH properties, RHS determined that requiring the borrower to distribute funding information was unnecessary. RHS will inform tenants when Federal funding is available during a Presidentially declared national emergency, where notifications are required.

II. Summary of Changes

Through this final rule, RHS is rescinding certain provisions from its regulations found at part 3560 of title 7 of the Code of Federal Regulations (CFR) (“Direct Multi-Family Housing Loans and Grants”). Specifically, RHS is amending § 3560.156 by revising paragraph (c)(18)(xvi), “Lease Requirements,” to remove the required minimum notice of 30 days. This rule will also remove § 3560.159 paragraph (a)(3) under “Termination of Occupancy,” to remove the 30-day minimum notice and additional information including information as required by the Secretary during a presidentially declared national emergency. Finally, the rule will remove § 3560.160 paragraph (c)(4) under “Tenant Grievances,” that also details the requirement to disseminate information as required by the Secretary during a presidentially declared national emergency.

III. Executive Orders/Acts

Executive Order 12372 – Intergovernmental Consultation

These loans are subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. RHS conducts intergovernmental consultations for each loan in accordance with 2 CFR part 415, subpart C.

Executive Order 12866 Regulatory Planning and Review

Not Significant: This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988 – Civil Justice Reform

This final rule has been reviewed under Executive Order 12988. In accordance with this final rule: (1) unless otherwise specifically provided, all State and local laws that conflict with this final rule will be preempted; (2) no retroactive effect will be given

to this final rule except as specifically prescribed in the final rule; and (3) administrative proceedings of the National Appeals Division of the Department of Agriculture (7 CFR part 11) must be exhausted before bringing suit in court that challenges action taken under this final rule.

Executive Order 13132 – Federalism

The policies contained in this final 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 final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the States is not required.

Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Consultation is also required for any regulation that preempts Tribal law or that imposes substantial direct compliance costs on Indian Tribal governments and that is not required by statute.

The Agency has determined that this final rule does not, to our knowledge, have Tribal implications that require formal Tribal consultation under Executive Order 13175. If a Tribe requests consultation, RHS will work with the Office of Tribal Relations to

ensure meaningful consultation is provided where changes, additions and modifications identified herein are not expressly mandated by Congress.

Assistance Listing Number (formally known as the Catalog of Federal Domestic Assistance)

10.415 Rural Rental Housing Loans.

Civil Rights Impact Analysis

Rural Development has reviewed this final rule in accordance with USDA Regulation 4300-4, Civil Rights Impact Analysis, to identify any major civil rights impacts the final rule might have on program participants on the basis of age, race, color, national origin, sex, disability, marital or familial status. Based on the review and analysis of the final rule and all available data, issuance of this final rule is not likely to negatively impact low and moderate-income populations, minority populations, women, Indian Tribes or persons disability, by virtue of their age, race, color, national origin, sex, disability, or marital or familial status. No major civil rights impact is likely to result from this final rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this final rule as not a major rule, as defined by 5 U.S.C. 804(2).

E-Government Act Compliance

Rural Development is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible and to promote the use of the Internet and other information technologies to provide increased

opportunities for citizen access to Government information and services, and for other purposes.

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§4321-4347, as amended, this final rule has been reviewed in accordance with 7 CFR part 1b. The Agency has determined that i) this action meets the criteria established in 7 CFR 1b.4(c)(31) and ii) no extraordinary circumstances exist. These findings require no documentation. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Paperwork Reduction Act

This final rule contains no reporting or recordkeeping provisions requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Regulatory Flexibility Act

The final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature on this document that this final rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program, nor does it require any more action on the part of a small business than required of a large entity.

Severability

It is USDA's intention that the provisions of this final rule shall operate independently of each other. In the event that this final rule or any portion of this final

rule is ultimately declared invalid or stayed as to a particular provision, it is USDA's intent that the final rule nonetheless be severable and remain valid with respect to those provisions not affected by a declaration of invalidity or stayed. USDA concludes it would separately adopt all of the provisions contained in this final rule.

USDA 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, 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.

Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Program information may be made available in languages other than English.

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> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

a. Mail: U.S. Department of Agriculture

Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW, Mail Stop 9410
Washington, D.C. 20250-9410; or

b. Fax: (202) 690-7442; or

c. Email: program.intake@usda.gov

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List of Subjects in 7 CFR Part 3560

Accounting, Administrative practice and procedure, Aged, Conflict of interest, Government property management, Grant programs—housing and community development, Insurance, Loan programs—agriculture, Loan programs—housing and community development, Low and moderate-income housing, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Rural Housing Service amends 7 CFR part 3560 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 D—Multi-Family Housing Occupancy

2. Amend § 3560.156 by revising paragraph (c)(18)(xvi) to read as follows:

§ 3560.156 Lease requirements.

* * * * *

(c) * * *

(18) * * *

(xvi) The procedures that must be followed by the borrower and the tenant in giving notices required under terms of the lease, including lease violation notices;

* * * * *

§ 3560.159 [Amended]

3. Amend § 3560.159 by removing paragraph (a)(3).

§ 3560.160 [Amended]

4. Amend § 3560.160 by removing paragraph (c)(4).

George Kelly,

Administrator,

Rural Housing Service,

USDA Rural Development.

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