

necessary to comply with the requirements of this section.

(i) *Taxes.* The borrower is responsible for paying all taxes and assessments on a housing project before they become delinquent. Annually, borrowers must certify to the Agency that all taxes are current.

(1) An exception to the above may be made if the borrower has formally contested the amount of the property assessment and escrowed the amount of taxes in question in a manner approved by the Agency.

(2) Failure to pay taxes and assessments when due will be considered a default. If a borrower fails to pay outstanding taxes and assessments, the Agency will pay the outstanding balance and charge the tax or assessment amount, assessed penalties, and any additional incurred costs to the borrower's Agency account.

(3) The Agency will require borrowers who have demonstrated an inability to pay taxes in a timely manner to escrow amounts sufficient to pay taxes.

§§ 3560.106–3560.149 [Reserved]

§ 3560.150 OMB control number. [Reserved]

Subpart D—Multi-Family Housing Occupancy

§ 3560.151 General.

This subpart contains borrower and tenant requirements and Agency responsibilities related to occupancy of Agency-financed multi-family housing projects. Occupancy eligibility requirements apply to the following:

(a) Family housing projects, including farm labor housing;

(b) Elderly housing projects;

(c) Mixed housing projects for both family and elderly households; and

(d) Congregate housing or group homes for persons with special needs.

§ 3560.152 Tenant eligibility.

(a) *General requirements.* Except as specified in paragraph (b) of this section, households eligible for occupancy in Agency-financed housing must either:

(1) Be a United States citizen or legal or qualified alien as defined in § 3560.11, and either:

(2) Qualify as a very low-, low-, or moderate-income household; or

(3) Be eligible under the requirements established to qualify for housing benefits provided by sources other than the Agency, such as HUD Section 8 assistance or LIHTCs, when a household receives such housing benefits.

(b) *Exception.* Households with incomes above the moderate-income

level may occupy housing projects with an Agency loan approved prior to 1968 with a loan agreement that does not restrict occupancy by income.

(c) *Requirements for elderly housing, elderly units in mixed housing, congregate housing, and group homes.* In addition to the requirements of paragraph (a) of this section, the following occupancy requirements apply to elderly housing, elderly units in mixed housing, and congregate housing or group homes.

(1) For elderly housing, elderly units in mixed housing, and congregate housing the following provisions apply.

(i) Households must meet the definition of an elderly household in § 3560.11 to be eligible for occupancy in elderly or congregate housing.

(ii) If non-elderly persons are members of a household where the tenant or co-tenant is an elderly person, the non-elderly persons are eligible for occupancy in the tenant's or co-tenant's rental unit.

(iii) Applicants who will agree to participate in the services provided by a congregate housing project may be given occupancy priority.

(2) For group homes, the following provisions apply.

(i) Occupancy may be limited to a specific group of tenants, such as elderly persons or persons with developmental disabilities, or mental impairments, if such an occupancy limitation is contained in the borrower's management plan.

(ii) Tenants must meet the requirements of paragraph (a) of this section and must be able to demonstrate a need for the special services provided by the group home.

(iii) Tenants cannot be required to be a part of an ongoing training or rehabilitation program.

(iv) Tenants must be selected from the market area prior to considering applicants from other areas.

(d) *Ineligible tenant waiver.* The Agency may authorize the borrower in writing, upon receiving the borrower's written request with the necessary documentation, to rent vacant units to ineligible persons for temporary periods to protect the financial interest of the Government. Likewise, this provision may extend to a cooperative. This authority will be for the entire project for periods not to exceed 1 year. Within the period of the lease, the tenant may not be required to move to allow an eligible applicant to obtain occupancy, should one become available. The Agency must make the following determinations.

(1) There are no eligible persons on a waiting list.

(2) The borrower provided documentation that a diligent but unsuccessful effort to rent any vacant units to an eligible tenant household has been made. Such documentation may consist of advertisements in appropriate publications, posting notices in several public places, and other places where persons seeking rental housing would likely make contact; holding open houses, making appropriate contacts with public housing agencies and organizations, Chambers of Commerce, and real estate agencies.

(3) The borrower agrees to publish a notice in the local newspaper to inform the public of the borrower's intent to temporarily rent apartments to all persons without regard to age or income restrictions.

(4) The borrower agrees to continue with aggressive efforts to locate eligible tenants and submit monthly reports of their marketing efforts to the Agency.

(5) The borrower is temporarily unable to achieve or maintain a level of occupancy sufficient to prevent financial default and foreclosure and the Agency's approval of the waiver will be for a limited duration.

(6) That the lease agreement will not be more than 12 months and at its expiration will convert to a month-to-month lease. The monthly lease will require that the unit be vacated upon 30 days notice when an eligible applicant is available.

(7) Tenants residing in RRH units who are ineligible because their adjusted annual income exceeds the maximum for the RRH project will be charged the RHS approved note rate rental rate for the size of unit occupied in a Plan II RRH project. In projects operated under Plan I, ineligible tenants will be charged rental surcharge of 25 percent of the approved note rate rental rate.

(8) Tenants residing in off-farm LH units who are ineligible because their adjusted annual income exceeds the maximum for the area will be charged the lesser of the LH project's note rate rent or the prevailing market rent rate for the project. For on-farm tenants, rent determination may be subject to local discretion within limitations contained in subpart L of this part. Excess rent shall be remitted to the Agency for credit to the Rural Housing Insurance Fund.

(e) *Tenant certification and verification.* Tenants and borrowers must execute an Agency-approved tenant certification form establishing the tenant's eligibility prior to occupancy. In addition, tenant households must be recertified and must execute a tenant certification form at least annually or whenever a change in household status