

accordance with § 3560.159(c). Tenants must request a LOPE within 30 days of the prepayment acceptance notice date.

**§ 3560.661 Sale or transfers.**

(a) If a sale or transfer is to take place simultaneously with the Rural Housing Service incentive offer, the sale or transfer must comply with the provisions of subpart I of this part.

(b) If a proposed transferee is determined not to be eligible for the transfer and assumption, the borrower will be given an additional 45 days to find another transferee.

(c) In cases where the existing owner is in program non-compliance or default, the Rural Housing Service may make an offer of incentives contingent on the successful transfer of the housing to an acceptable purchaser. The Rural Housing Service may offer a smaller incentive or no incentive if the borrower does not agree to transfer the project to an acceptable purchaser, or if the transfer does not take place.

**§ 3560.662 Restrictive-use provisions and agreements.**

(a) *Clauses required for active borrowers with housing projects subject to restrictive-use provisions as a result of a loan making or servicing actions.* The restrictive-use provisions must be contained in the loan documents or security instruments. The restrictions are applicable for a term of 20 years. All loans or servicing actions meeting the criteria described in paragraphs (a)(1), (2), and (3) of this section, must include the following clause in loan documents.

The borrower and any successors in interest agree to use the housing project for the purpose of housing people eligible for occupancy as provided in section 514 or section 515 of title V of the Housing Act of 1949, and Rural Housing Service regulations then in existence during this 20-year period beginning (the date the last loan on the housing project is obligated or the date the housing project was last made subject to the prepayment restrictive-use provisions as a result of servicing actions or an incentive agreement, authorized under this subpart). Until (date), no eligible person occupying the housing project shall be required to vacate, or any eligible person wishing to occupy shall be denied occupancy without cause. The borrower will be released from these obligations before that date only when the Rural Housing Service determines that there is no longer a need for such housing or that such other financial assistance provided the residents of such housing will no longer be provided due to no fault, action, or lack of action on the part of the borrower. A tenant or individual wishing to occupy the housing, as well as the Rural Housing Service, may seek enforcement of this provision.

(1) All loans approved after December 21, 1979, but prior to December 15, 1989.

(2) Subsequent loans not made to build or acquire new units approved on or after December 15, 1989.

(3) Any loan approved prior to December 21, 1979, and subsequently made subject to restrictive-use provisions due to a servicing action in accordance with in subparts I and J of this part, or an incentive to accept restrictive-use provisions in accordance with in this subpart.

(b) *Clauses required for active borrowers with housing projects subject to restrictive-use provisions as a result of a loan making or servicing actions when the loan is transferred to a limited partnership.* The restrictive-use provisions must be contained in the loan documents or security instruments. The restrictions are applicable for a term of 30 years. All loans or servicing actions meeting the criteria described in paragraphs (b)(1), (2), and (3) of this section, must include the following clause in loan documents.

The borrower and any successors in interest agree to use the housing project for the purpose of housing people eligible for occupancy as provided in section 514 or section 515 of title V of the Housing Act of 1949, and Rural Housing Service regulations then in existence during this 30-year period beginning (the date the last loan on the housing project is obligated or the date the housing project was last made subject to the prepayment restrictive-use provisions as a result of servicing actions or an incentive agreement, authorized under this subpart). Until (date), no eligible person occupying the housing project shall be required to vacate, or any eligible person wishing to occupy shall be denied occupancy without cause. The borrower will be released from these obligations before that date only when the Rural Housing Service determines that there is no longer a need for such housing or that such other financial assistance provided the residents of such housing will no longer be provided due to no fault, action, or lack of action on the part of the borrower. A tenant or individual wishing to occupy the housing, as well as the Rural Housing Service, may seek enforcement of this provision.

(1) All loans approved after December 21, 1979, but prior to December 15, 1989.

(2) Subsequent loans not made to build or acquire new units approved on or after December 15, 1989.

(3) Any loans approved prior to December 21, 1979, and subsequently made subject to restrictive-use provisions due to a servicing action in accordance with in subparts I and J of this part, or an incentive to accept restrictive-use provisions in accordance with in this subpart.

(c) *Clauses required for housing projects made subject to restrictive-use provisions when a loan is transferred to a nonprofit organization or public body.*

(1) For housing projects being made subject to restrictive-use provisions because of a transfer to a nonprofit or public body, in accordance with in § 3560.659, the following clause must be inserted in the deed, conveyance instrument, loan resolution and assumption agreement, as applicable.

The borrower and any successors in interest agree to use the housing project for the purpose of housing very low- and low-income people eligible for occupancy as provided in Rural Housing Service regulations then in existence during the remaining useful life of the housing project. A tenant or person wishing to occupy the housing project, as well as the Rural Housing Service, may seek enforcement of this provision. Throughout the remaining useful life of this housing project, no eligible person occupying or wishing to occupy the housing project shall be required to vacate or be denied occupancy without cause. Rents, other charges, and conditions of occupancy will be set to meet these conditions. The borrower will be released during such period from these obligations only when the Rural Housing Service determines that there is no longer a need for such housing. Further, the borrower will be released if other financial assistance provided to the residents of such housing will no longer be provided due to no fault, action or lack of action on the part of the borrower.

(2) The restrictions are intended to protect only very low- and low-income people for the remaining useful life of the project, unless the Rural Housing Service subsidy is removed without cause or it is determined there is no longer a need for the housing. These restrictions will not be superceded by new restrictions imposed by subsequent transfers. Eligible moderate-income tenants living at the project at the time of prepayment will not be required to move as a result of the restrictions. Moderate-income applicants for the housing will continue to retain priority over ineligible applicants for the housing.

(d) *Clauses and agreement required for prepaid projects, which were subject to restrictive-use provisions prior to the prepayment.* (1) Housing projects may only be prepaid if the title to the real property is made subject to the following restrictive-use provisions and incorporated in the security releases. The following Multi-Family Housing projects are subject to restrictive-use provisions herein contained:

(i) Any loan on the project obligated between December 21, 1979, and December 15, 1989, or subsequent loan not made to build or acquire new units approved on or after December 15, 1989.

(ii) Any loan made subject to restrictive-use provisions as a result of a transfer or reamortization as contained in this subpart.