

December 28, 2016

TO: State Directors
Program Directors
Multi-Family Housing

FROM: Tony Hernandez /s/ **Cathy Green** for
Administrator
Housing and Community Facilities Programs

SUBJECT: Management of Loan Payoffs in Multi-Family Housing Properties

This Unnumbered Letter (UL) discusses the various options for handling properties where the Rural Development (RD) mortgage has reached its maturity date. This UL supersedes the UL issued April 28, 2015. The attachments from the previous UL have been revised to include a new “Borrower Notification Letter”, and a sample “Tenant Notification Letter”; the previous Attachment 5 “Lease Addendum” and the Flow Chart have been deleted.

RD Multi-Family Housing (MFH) Direct Loan programs began in the 1970s, and many loans are now coming to their natural maturity date. In addition, some Borrowers have loans that appear to be paid ahead of the Promissory Note’s scheduled maturity date. The intent of this UL is to provide additional guidance to Agency staff, owners and managers of Section 515 and Sections 514/516 properties reaching their maturity date naturally or through “Paid Ahead” status, and to discuss possible efforts to retain properties in the RD portfolio.

Below are the steps that Servicing Offices need to take to review any accounts that are within 36 months of naturally maturing:

1. Review Loan Status

The National Office will periodically update the Multi-Family Information System (MFIS) SharePoint site with a link to the “Maturing Mortgages”. This posting will be a list of those properties with loans currently scheduled to pay off ahead of their regular payment/amortization schedule, and/or those that will be reaching their natural maturity date. Upon issuance of this UL, Agency staff should review this list and identify any properties that may have 36 or fewer months remaining before the loan may be expected to be paid in full. The list can be found at: https://ems-team.usda.gov/sites/RD_HCFP/mfh/SitePages/Home.aspx.

EXPIRATION DATE:
January 31, 2018

FILING INSTRUCTIONS:
Housing Programs

State Office and field office staff may also review the RC 545 Report, “Analysis of Delinquent Loan Receivable Accounts All Projects AMAS,” to determine if the unpaid balance/installment is fewer than 36 installments.

Please note that the list does *not* account for time periods associated with loans held in suspense, or for processing delays that may have been incurred on foreclosure. These types of loans require individual attention. Servicing Officials should review this list at least annually and take appropriate action with regard to such Borrowers.

Loan status may consist of A) loans in “Paid Ahead” status due to the application of extra and regular payments which may result in a last payment date prior to the loan maturity date in the Promissory Note; or B) “Final Payoff” status of loans that have reached their natural maturity date.

A. Paid Ahead Status

I. Application of Extra Payments

Offices may encounter instances in which a Borrower’s account reflects a last payment on the loan due prior to the maturity date as a result of “extra payments” being applied. Circumstances which may have created this situation include:

- Proceeds from partial sale of property secured by Rural Development per 7 CFR §3560.54(a)(11)(ii).
- Remission to the Agency of any fees collected in excess of operating expenses to the loan account as an extra loan payment under 7 CFR §3560.53(e)(2).
- Application of surplus funds to reduce the debt service on the Borrower’s loans per 7 CFR §3560.306(d)(2).

II. Regular Payment Application

There are instances in which annual installment Borrowers submit their payments on a monthly payment schedule (seen typically in Off-Farm Labor Housing accounts), and/or other instances where application of a regular monthly installment results in a “Pay Ahead” schedule.

In no case will the Agency accept a final payment from Borrowers in “Paid Ahead” status if it would result in a prepayment of the mortgage prior to the maturity date in the Note. Borrowers seeking to prepay their loan(s) are governed by 7 CFR §3560.653(a). If a payment is received that may pay off the indebtedness in advance of the Promissory Note maturity date (i.e., prepayment), the National Finance and Accounting Operations Center (NFAOC) will follow-up with the RD State Office for approval documentation. If NFAOC does not receive an approval or it is denied, NFAOC will refund the cash back to the Borrower.

B. Final Payoff Status

I. Promissory Note Naturally Maturing

These are accounts that have reached their natural maturity based on the maturity date in the Promissory Note and the loan's amortization schedule. For a payment to be final, it must include repayment of all outstanding obligations to the Agency.

2. Notify Borrowers of Options

Servicing Officials should notify Borrowers with 36 or fewer months remaining until the loan maturity date utilizing Attachment 1, "*Borrower Notification Letter*" and provide the following:

- Current account information: expected date of loan payoff/mortgage maturity;
- Tenant notification requirements, including Attachment 2: "*Sample Tenant Notification Letter*";
- Advise that the end of the RD mortgage will result in the end of Rental Assistance (RA) and interest credit subsidy; and,
- Procedures to follow in requesting a re-amortization and provide RD Form 3560-15, "*Re-amortization Request*".

All requests to re-amortize must be initiated by the Borrower through Form RD 3560-15. Requests determined acceptable by the Servicing Office will be submitted to the National Office utilizing Attachment 3, "*Request for Exception to Avoid Loan Maturity*".

Borrowers in "Paid Ahead" or "Final Payment" status with loans maturing through calendar year (CY) 2019 should be strongly encouraged to immediately request a re-amortization of the existing loan balance to a date up to 20 years beyond the original Promissory Note date. This is a "Re-Am Lite" and is explained further in this UL. In exchange for this action, RA and interest credit will remain available to the property.

Borrowers in "Paid Ahead" or "Final Payment" status with loans maturing through CY 2019, who decline to request an extended re-amortization and have more than 6 months remaining until the loan maturity date, should be strongly encouraged to submit an application to request debt deferral under the Multifamily Preservation and Revitalization (MPR) Demonstration program.

Borrowers in "Paid Ahead" or "Final Payment" status with loans maturing through CY 2019, who decline to request an extended re-amortization, decline to submit an application under MPR, and who have at least 12 months remaining until the loan maturity date, should be strongly encouraged to submit a request to prepay the loan, if eligible, in accordance with 7 CFR 3560, Subpart N. Tenants in properties that prepay the RD mortgage in accordance with statutory and regulatory requirements are eligible for the offer of an RD Voucher.

At a minimum, Borrowers in "Paid Ahead" status who have not formally requested to prepay the RD mortgage must be advised that under statutory and regulatory requirements, no early

prepayment can be accepted. In order to match loan payoff with the Promissory Note maturity date, the Borrower must request a loan re-amortization at least up to the Promissory Note maturity date. This is not an adverse action by the Agency; rather, the action ensures that the loan terms comply with the original Promissory Note maturity date. If the Borrower declines to re-amortize the remaining balance to the original Promissory Note date, then the Borrower must be advised that the “Final Payment”, if submitted, cannot be accepted or processed until the maturity date is reached. Form 3560-29, “*Notice of Payment Due*” (Project Worksheets) requesting RA will be handled on a case-by-case basis. Servicing Officials will contact the National Office for additional guidance in processing RA for the period until the loan maturity date is reached.

Borrowers who decline all re-amortization or debt deferral offers should be encouraged to apply for incentives to avert prepayment. These consist of additional RA units, an equity loan and/or an increase in their Return to Owner (RTO). Such action keeps the property in the RD portfolio.

3. Processing a “Re-am Lite”

For Borrowers with loans maturing through CY 2019, a “Re-am Lite” is intended to speed processing the re-amortization request to retain as many properties as possible coming up on imminent loan maturity. This streamlined process requires a request from the Borrower (i.e. Form RD 3560-15), review and recommendation by the State Office, and National Office approval of an exception request to current MFH regulations.

The Borrower shall submit Form RD 3560-15, “*Re-amortization Request*” to their Agency Servicing Official. Upon receipt of the *Request*, the Servicing Official’s review should determine the suitability of the property in accordance with HB-3-3560, Chapter 6, and whether it should remain in the program. If determined suitable, the State Office must submit to the National Office, Attachment 3, “*Request for Exception to Avoid Loan Maturity*”. This is a request for an exception to §3560.455(b) concerning conditions and required documentation for approving a loan re-amortization. This exception applies only to properties where the loan is expected to mature through CY 2019. All other re-amortization requests should be processed in accordance with HB-3-3560, Chapter 11.

For this special re-amortization category:

- No appraisal will be required;
- Servicing officials may approve an increase of the Borrower’s term up to a 20-year term;
- No change in current year budget or current year rents is required.

However, when the proposed budget is submitted for the following year, the Borrower will submit an adjusted budget, addressing implications of the re-amortization. This could require a rent decrease. Additionally, if the change in annual debt service is more than 50 percent, the Borrower may be required to obtain a Capital Needs Assessment (CNA) at that time to identify long-term capital needs of the property and the Reserve Account may be re-sized, if warranted.

If the term is extended past the original mortgage, a new mortgage will need to be prepared and filed. No additional Restrictive-Use Provisions (RUPs) will be required for these properties.

For re-amortization requests that are extending the term of the existing Promissory Note, the Agency will need to obtain a loan modification approval, which may take several months to receive. Therefore, it is important that Borrowers and field offices plan accordingly.

4. Tracking Borrower and Tenant Notifications

For Borrowers whose loans are expected to mature within 36 months, Servicing Officials will provide the attached Borrower Notification Letter (Attachment 1).

The Borrower Notification letter includes information on the current status of the Borrower's loan account, offers options for the Borrower to remain in the RD program including continuing to receive the benefits of RA and interest credit, and discusses Tenant Notification requirements.

Borrowers should notify Tenants immediately if the date of maturity is less than 12 months from the date of Notification to the Borrower or no later than 12 months prior to the date of maturity. If the Borrower is leaving the RD program and the property has RA, then the Tenants should be advised that they may be able to transfer their RA unit to another RD property (under circumstances stated in the notification letter) for up to 4 months from the date of mortgage payoff. This information is in Attachment 2, "*Sample Tenant Notification Letter*", which Borrowers may use for Tenant notification purposes.

Servicing Officials will be required to input the date of notification to the Borrower on the "Maturing Mortgages" list on the MFIS SharePoint site referred to at the beginning of this UL. Having this information will enable RD to identify those Borrowers that have been notified.

Any questions regarding information included in this UL, the steps involved in the management of identified loans, or the processes outlined should be directed to the MFH Portfolio Management Analyst assigned to your State.

Attachment 1 – Borrower Notification Letter

Attachment 2 – Sample Tenant Notification Letter

Attachment 3 – Format of the "Request for Exception to Avoid Maturity"

BORROWER NOTIFICATION LETTER

Date

[Address Block]

RE: Payment status of [Insert project name/case #]

Dear [Insert recipient]:

We are writing to notify you that a review of your loan account(s) has been completed.

Your loan(s) is/are evidenced by a Promissory Note and/or Assumption Agreement received through the Rural Housing Service, USDA. One of the following situations applies to your loan(s):

_____ Your loan is expected to ‘Payoff’ within the next 36 months, which is prior to the maturity date of _____, as stated in the Promissory Note and/or Assumption Agreement.

_____ Your loan is expected to reach maturity on _____ as identified in the Promissory Note and/or Assumption Agreement.

If your loan is expected to reach maturity prior to the date in the Promissory Note/Assumption Agreement, whether due to extra principal payments applied to the account, or the application of regular monthly installments on an annual installment note, or installments which have resulted in an “Ahead of Schedule” status, then please be advised the Agency cannot accept final payment from Borrowers whose loans are in a “Paid Ahead” Schedule status if it would result in a prepayment of the mortgage prior to the maturity date in the Note.

The Agency is offering the following options to ensure affordable housing is retained and to avert early payoff of your loan:

- 1) As the Agency is unable to accept a “Final Payment” prior to the natural maturity date in the Note, the Agency is strongly encouraging Borrowers with loans in “Paid Ahead” status to, at minimum, re-amortize the remaining balance on the account to the date of maturity identified in the Promissory Note/Assumption Agreement. Please complete the enclosed Form RD 3560-15, “*Re-amortization Request*”, and submit the form to the address below no later than 10 days from receipt of this letter.
- 2) The Agency is strongly encouraging Borrowers with loans in “Paid Ahead” status or with a maturity date through calendar year (CY) 2019, and for which a determination of continued suitability is made, to re-amortize the balance remaining on the loan for up to

an additional 20-year period under a streamlined re-amortization process known as a “Re-am Lite”. This re-amortization will ensure that interest credit and Rental Assistance (RA) subsidies, if applicable, will remain available to the property for the period of the re-amortization, and there will be no negative impact to Tenants or potential for displacement. Please complete the enclosed Form RD 3560-15, “*Re-amortization Request*” and submit the form to the address below. Please indicate the maximum term for which you are requesting a re-amortization (i.e. 5 years, 10 years, etc.) not to exceed 20 years. Contact your servicing office for additional information regarding the “Re-am Lite”.

- 3) If your loan is maturing through CY 2019 and has more than 6 months remaining until the loan maturity date, then you are strongly encouraged to submit an application to request debt deferral under the Multifamily Preservation and Revitalization (MPR) Demonstration program. Such applications will be given additional points under the Notice of Solicitation of Applications (NOSA) scoring system.
- 4) If you decline any of the efforts above but still wish to remain in the Rural Development (RD) portfolio, and you have at least 12 months remaining until your note maturity, you should submit a request to prepay the RD loan, if eligible, in accordance with 7 CFR 3560, Subpart N, and accept offers from RD to avert prepayment. These offers may consist of additional RA units (if the property has less than 100 percent RA), an equity loan or increase to your Return to Owner (RTO). Acceptance of these offers will retain the property in RD’s portfolio. Should you decline any incentives to remain in the program, Tenants in properties that prepay the RD mortgage in accordance with statutory and regulatory requirements are eligible to receive offers of an RD Voucher, which is a housing voucher to assist payment of rent.
- 5) If you decline any of the options identified in this letter, and you are within 12 months of paying off your indebtedness to the Agency, then you are strongly encouraged to immediately notify Tenants of the impact of leaving the RD program, as once the loan is paid in full, the project no longer benefits from interest credit subsidies or RA (if applicable), and Tenants may be displaced. Additionally, Tenants will not be eligible for the Agency’s RD Voucher Program, which is only available for Tenants in properties that prepay in accordance with 7 CFR part 3560, Subpart N.

Tenant notifications should occur:

- 1) Immediately, if the date of maturity is less than 12 months from this notice; or
- 2) No later than 12 months prior to the date of maturity; and,
- 3) In accordance with all applicable state and local laws.

At a minimum, notices to Tenants should include:

- Expected date of mortgage maturity;
- Information that the end of the RD mortgage will result in the end of RA subsidy, if applicable;
- Information regarding any potential rent increase that may be instituted after the loan is paid off;
- Tenants receiving RA should be informed that they may be able to transfer their RA to another RD property to which they move after payoff of the

mortgage. Tenants have up to 4 months after mortgage payoff to use the RA, as per 7 CFR 3560.259(c);

- Location and contact information about other RD properties in the county or locality. A current list is attached. Other property and contact information can be found at:
http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select_state.jsp?home=YES.
- Information about other housing subsidies that may be available through Federal, State, or local resources, including contact information for such agencies.

Attachment 2, *Sample Tenant Notification Letter*, is available for your use. A copy of the Notification should be posted in the common areas of the property and a copy provided to Tenants moving into the property after the date of posting and prior to loan payoff.

RD staff is available to assist you in explaining mortgage payoff implications to your Tenants or providing information to help them make informed decisions. Please feel free to contact me should you have any questions or need further information, [*Insert staff name and contact information*].

Sincerely,

[Insert staff name and title]

cc: [insert Area Office Servicing Specialist information]

Enclosures

SAMPLE TENANT NOTIFICATION LETTER

OWNER LETTER TO TENANTS – NOTIFICATION OF MORTGAGE PAYOFF

To: The Tenants of _____

Subject: Notice of Rural Development Loan Payoff

Your apartment was developed with assistance from a loan provided by the U.S. Department of Agriculture (USDA), Rural Development, an Agency of the U.S. Government. This loan is expected to be paid off on _____. When the loan is fully paid, Rural Development will no longer oversee the apartment's management, leases, and rents. The Rental Assistance (RA) subsidy will no longer be available, and as a result, rents at the apartment could go up and those tenants formerly receiving RA, if provided, will no longer receive reduced rents.

If you are currently receiving Section 8 assistance or other subsidy to help with paying for all or part of your rent, such assistance should continue. Only RA provided by Rural Development will no longer be available at this property after the loan has been paid off.

If you are receiving RA at the time of loan payoff and choose to move to another Rural Development financed property, you are entitled to transfer that RA to the new property. You will have up to four (4) months after the loan is paid off to move into another Rural Development financed property to be eligible to transfer the RA. There are some situations in which you cannot transfer the RA. For example, if you are going to a property that is already 100 percent subsidized with Rural Development RA or the U.S. Department of Housing and Urban Development (HUD) Section 8; or, if the housing is not financed by Rural Development. Included with this letter is a listing of other Rural Development properties located nearby your community. You can access additional information about other Rural Development properties by going to: http://rdmfhrentals.sc.egov.usda.gov/RDMFHRentals/select_state.jsp?home=YES

FOR PROPERTIES IN WHICH THE OWNER HAS SUBMITTED A PREPAYMENT REQUEST IN ACCORDANCE WITH 7 CFR 3560, Subpart N.

If you are a Tenant of this property at the time the loan is paid off through prepayment (as processed and approved by Rural Development), you may be eligible for a Rural Development housing Voucher (RD Voucher). This Voucher will pay the difference between the comparable market rent for your current apartment and the amount of Tenant contribution you are now making towards rent. This RD Voucher may be used in any apartment property in which a landlord is willing to accept the Voucher.

To qualify for the Rural Development Voucher program, you must:

1. Be a Tenant of the property at the time the loan is paid off;
2. Have an income level at or below 80 percent of the area median income; and
3. Be a U.S. citizen, a U.S. non-citizen national or a qualified alien.

Upon payoff of the loan, you will receive a letter offering you an RD Voucher. This will indicate the amount of the Voucher for which you may qualify, and will list the required documents that must be submitted in order to obtain the RD Voucher. The offer of a Voucher is good for up to ten (10) months after the loan is paid off, should you not want to make a decision immediately. Additional contact information will be included in the letter to guide you through the process. More information about the RD Voucher program and your eligibility will be sent to you as the payoff date approaches.

Information about housing subsidies that may be available from other Federal, State, or local resources, including contact information for such agencies is included with this letter.

If you have any questions about this letter or the information in it, please feel free to contact the property manager at:

Or, you may also contact the Rural Development staff at:

Sincerely,

Attachments:

- Listing of Rural Development – Financed Properties
- Listing of Housing Authorities and other Agencies that may be able to assist with rental subsidies

TO: Tony Hernandez
Administrator

FROM: (State Director)
State Director
Rural Development State Office

SUBJECT: Request for Exception to Avoid Loan Maturity
Borrower/Project Name

In accordance with the Unnumbered Letter “Management of Loan Payoffs in Multi-Family Properties” and with 7 CFR 3560.8, this is a request for an exception to the requirements of 7 CFR 3560.455(b). In order to avert loss of the affordable housing in rural communities through loan payoffs due to maturation of the Rural Development mortgage, an exception is requested to process a re-amortization of the outstanding loan balance for the loan account listed below. The re-amortization will be for (check as appropriate):

_____ re-amortization to current maturity date of _____;

OR

_____ re-amortization for an additional _(term as identified in Borrower’s Request to Re-Amortize not to exceed 20 years)_ at the (same rate or new rate).

1. Borrower Case Number:
2. Loan Information
 - a. Original Mortgage Date:
 - b. Mortgage Maturity Date:
 - c. Original Loan Amount:
 - d. Current Loan Balance:
 - e. Current Interest Rate:
 - f. Current Monthly Payment:
3. Proposed Re-amortization:
 - a. Requested Effective Date:
 - b. Approx. New Monthly Payment:
 - c. Any Additional Requirements:
 - i. Suitability & CNA:
 - ii. Open MFIS Findings: