

## § 1901.203

of Form FmHA or its successor agency under Public Law 103-354 400-4, "Non-discrimination Agreement," and inform the applicant that assistance will be conditioned upon executing this form and complying with the requirements of this subpart.

(e) *Covenants*. Each instrument of conveyance for loans subject to title VI of the Civil Rights Act of 1964, as outlined in § 1901.204, must contain the following covenant: "The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer."

(f) *Posters*. The nondiscrimination poster, "And Justice For All," will be displayed at the facilities and/or office of any borrower or grantee if the facilities have been financed by an FmHA or its successor agency under Public Law 103-354 loan or grant and are subject to title VI of the Civil Rights Act of 1964. This poster also will be displayed in all FmHA or its successor agency under Public Law 103-354 State and County Offices.

(g) *Racial and ethnic data*. Recipients should maintain, for review by FmHA or its successor agency under Public Law 103-354 and other appropriate agencies, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of FmHA or its successor agency under Public Law 103-354-assisted programs. The data should identify recipients as White, Negro or Black, American Indian, Spanish Surname, Oriental and Other.

(h) *Discrimination complaints*. (1) Any person or any specific class of persons, if they believe they have been subject to discrimination prohibited by this subpart, may file a written complaint with any FmHA or its successor agency under Public Law 103-354 office, or, if they prefer with the Secretary of Agriculture. Persons who complain of discrimination will be advised of their rights to file complaints. A complaint

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must be filed not later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Agriculture.

(2) A complaint filed with the County Supervisor or the State Director will be referred promptly to the Administrator, Attention: Equal Opportunity Officer. Attached to the complaint should be a statement by the County Supervisor or State Director identifying the recipient and type of assistance provided by FmHA or its successor agency under Public Law 103-354, indicating whether a non-discrimination agreement has been signed, and giving any other available pertinent information about the complaint.

[41 FR 40112, Sept. 17, 1976]

### § 1901.203 Title VIII of the Civil Rights Act of 1968.

FmHA or its successor agency under Public Law 103-354 employees, FmHA or its successor agency under Public Law 103-354 borrowers, contractors, packagers, and others who provide housing for sale or rent, are obligated under the provisions of title VIII of the Civil Rights Act of 1968 to provide fair housing to all persons regardless of race, color, religion, sex, or national origin.

(a) *Coverage*. The prohibitions against discrimination in the sale, rental, or financing of housing contained in title VIII apply to:

(1) All dwellings financed by loans made by the Federal Government and, therefore, to all RH borrowers.

(2) Any person in the business of selling or renting dwellings defined as:

(i) The owner of a dwelling intended for occupancy by five or more families.

(ii) Any person who has participated as principal in the sale or rental of three or more dwellings in the past year.

(iii) Any person who has served as sale or rental agent in two or more transactions in the past year.

(b) *Discrimination acts prohibited*. Title VIII prohibits FmHA or its successor agency under Public Law 103-354 employees, multiple housing borrowers, and those with whom FmHA or its successor agency under Public Law 103-354

does business (contractors, realtors, packagers) from:

(1) Refusing to sell or rent a particular dwelling because of a person's race, color, religion, or national origin. The following actions constitute violations of this provision:

(i) Refusing to package an RH loan application.

(ii) Refusing or failing to show a particular dwelling or home in a particular subdivision.

(iii) Directing persons only to areas populated by those of similar race, color, religion, or national origin when housing is available in other areas.

(iv) Representing unsold dwellings or sites as sold to prospective buyers.

(2) Requiring applicants for services to meet different terms or conditions because of their race, color, religion, or national origin; for example, requiring larger rents or downpayments from minority applicants.

(3) Including in any advertising either directly or through visual representation a preference for applicants of a particular race or ethnic origin.

(i) Words indicative of the race or ethnic background of the dwelling or landlord such as "White private home," or "all Black subdivision," may not be used in advertising housing financed or to be financed by FmHA or its successor agency under Public Law 103-354.

(ii) Selection of advertising media and the areas to be covered by any advertising must be made to reach potential applicants of all races or ethnic origins.

(c) *FmHA or its successor agency under Public Law 103-354 affirmative action.* (1) It is the policy of the Farmers Home Administration or its successor agency under Public Law 103-354 to administer its housing program affirmatively so individuals of similar income levels in the housing market area have housing choices available to them regardless of their race, color, religion, sex, or national origin. Each participant in FmHA or its successor agency under Public Law 103-354 housing program shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility and in concluding sales and rental transactions.

(2) Applicability. The affirmative fair housing marketing requirements shall apply as follows:

(i) Participants in FmHA or its successor agency under Public Law 103-354 housing programs who request approval for subdivision development involving five or more sites, multi-family projects with five or more units including self-help technical assistance grantees assisting five or more families or five or more conditional commitments for single family dwelling units during a 12-month period must submit an affirmative marketing plan.

(ii) An Affirmative Fair Housing Marketing Plan is required to be prepared and submitted to FmHA or its successor agency under Public Law 103-354 by the contractor when:

(A) A real estate broker is offering five or more single-family dwellings located in the same subdivision for sale under an exclusive listing contract with FmHA or its successor agency under Public Law 103-354.

(B) An auctioneer under contract with FmHA or its successor agency under Public Law 103-354 is offering five or more single-family dwellings located in the same subdivision for sale by public auction.

(C) A contractor under a contract with FmHA or its successor agency under Public Law 103-354 is managing a multiple-family housing project of five or more units or five or more single-family dwellings located in the same subdivision.

(3) Affirmative fair housing marketing plans will be submitted on form HUD 935.2(3-76) or the participant must be a signatory to a voluntary affirmative marketing agreement approved by the Department of Housing and Urban Development. The plan, if submitted on form HUD 935.2(3-76) shall describe an affirmative program which will meet the following requirements:

(i) Reaching those prospective buyers or tenants, regardless of sex, of majority and minority groups in the marketing area who traditionally would not be expected to apply for such housing without special outreach efforts because of existing racial or socio-economic patterns.

(ii) Undertaking and/or maintaining a non-discriminatory hiring policy in

recruiting from both majority and minority groups including both sexes, for staff engaged in the sale or rental of properties.

(iii) Training and instructing employees engaged in the sale or rental properties in the policy and application of nondiscrimination and fair housing.

(iv) Displaying in all sales and rental offices the "Fair Housing" poster.

(v) Posting in a conspicuous position on each property and FmHA or its successor agency under Public Law 103-354 construction site a sign displaying the equal opportunity logo or the following statement:

We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin.

(vi) Undertaking efforts to publicize the availability of housing opportunities to minority persons through the type of media customarily used by the applicant or participant, including minority publications and other minority outlets available in the housing market area. As part of these efforts all advertising must include either the equal housing opportunity logo or statement. When illustrations or persons are included they shall depict persons of both sexes and of majority and minority groups.

(4) The affirmative fair housing marketing plans or evidence that the participant is covered by an approved voluntary affirmative marketing agreement must be submitted as follows:

(i) For subdivisions with the preliminary submission of plans and specifications.

(ii) For multi-family projects, including rural rental housing, labor housing, cooperative housing, technical assistance grants and site development loans with SF 424.1, "Application for Federal Assistance (For Non-construction)", or SF 424.2, "Application for Federal Assistance (For Construction)", or with the letter of application. Subsequent loans or grants extended to the participant will necessitate a new or updated plan.

(iii) For conditional commitments for five or more individual dwelling units in a 12-month period with the application for the fifth conditional commitment.

(iv) For real estate brokers listing housing properties on an exclusive basis, at any time more than 5 properties are listed for sale by FmHA or its successor agency under Public Law 103-354 in the same subdivision.

(5) Affirmative fair housing marketing plans will cover the following time periods:

(i) For subdivision, from time of application until all lots are sold.

(ii) For multi-family projects from time of application until the loan is paid in full or for so long as the project is being used for the same or a similar purpose for which the funds were extended.

(iii) For conditional commitments involving individual dwelling units, one year or until all units built through conditional commitments issued within the one year period have been sold.

(iv) For real estate brokers who list acquired rural housing properties under an exclusive listing contract, one year or until all properties covered under the plan have been sold, whichever is later.

(6) Affirmative fair housing marketing plans will be reviewed and approved by the official authorized to approve the assistance requested. The County Supervisor will review and submit with comments to the official authorized to approve the assistance requested, those fair housing marketing plans where the assistance requested exceeds his approval authority. Any participant covered by this section must have an approved affirmative fair housing marketing plan for any assistance approved 90 or more days after the issuance of these regulations.

(7) Approved affirmative fair housing marketing plans will be made available by the participant for public inspection at the participant's place of business and at each sales or rental office. Participants who fulfill the requirements of this section by filing a Form HUD 9352(3-76) will maintain records to reflect their efforts in fulfilling the affirmative fair housing marketing plan.

These records will be made available for review by FmHA or its successor agency under Public Law 103-354 personnel. Affirmative fair housing marketing plans will be reviewed by FmHA or its successor agency under Public Law 103-354 personnel in accordance with section 2006-M of this chapter.

(8) Applicants failing to comply with these requirements will be liable to sanctions authorized by regulations, rules or policies governing the program in which they are participating including but not limited to denial of further participation in FmHA or its successor agency under Public Law 103-354 programs and referral to the Department of Justice for suit by the United States for injunctive or other appropriate relief.

(d) *Discrimination complaints.* (1) Complaints against FmHA or its successor agency under Public Law 103-354 employees or borrowers under title VIII of the Civil Rights Act of 1968 received by the County Office will be sent to the State Director. The State Director will forward the complaints to the Administrator, Attention: Equal Opportunity Officer.

(2) Complaints of discrimination against packagers, contractors or others with whom FmHA or its successor agency under Public Law 103-354 deals should be filed with the Department of Housing and Urban Development. However, these complaints may be accepted by FmHA or its successor agency under Public Law 103-354 employees and routed through the State Director to the Administrator, Attention: Equal Opportunity Officer.

(e) *Relations to other regulations.* Nothing in this section in any way interferes with the administration of the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 or the "Equal Opportunity in Housing Certification," signed by all packagers.

[41 FR 40112, Sept. 17, 1976, as amended at 42 FR 45894, Sept. 13, 1977; 42 FR 58737, Nov. 11, 1977; 50 FR 23903, June 7, 1985; 53 FR 27825, July 25, 1988; 55 FR 13503, Apr. 11, 1990]

#### § 1901.204 Compliance reviews.

(a) *Recipients subject to reviews.* Recipients of the following kinds of loans and/or grants who received their loans or advances of funds on or after Janu-

ary 3, 1965, will be reviewed for compliance in accordance with Title VI of the Civil Rights Act of 1964. Guaranteed loans are not covered by Title VI and, therefore, are not subject to compliance reviews.

(1) Farm Ownership loans to install or improve recreational facilities or other nonfarm enterprises.

(2) Operating loans to install or improve recreational facilities or other nonfarm enterprises.

(3) Economic Opportunity loans to individuals for nonagricultural enterprises.

(4) Individual Recreation loans.

(5) Loans for Water and Waste Disposal facilities, including Resource Conservation and Development loans for this purpose.

(6) Community Facility loans.

(7) Watershed loans and advances.

(8) Recreation Association loans including those made from Resource Conservation and Development funds.

(9) Economic Opportunity loans to incorporated cooperative associations (Compliance reviews on unincorporated Economic Opportunity cooperatives subject to title VI will be conducted only as the need arises or as directed by either the State Director or the Administrator).

(10) Grazing Association loans, including Resource Conservation and Development loans for this purpose.

(11) Loans to Timber Development organizations.

(12) Rural Renewal loans and advances.

(13) Rural Rental Housing (formerly Senior Citizen rental) and Rural Cooperative Housing loans.

(14) Labor Housing loans and/or grants.

(15) Rural Housing Site loans.

(16) Business and Industrial Insured loans or grants.

(17) Technical Assistance grants.

(18) Development grants for water and waste disposal.

(19) Technical Assistance and Training grants in accordance with Title XIII of Pub. L. 99-198.

(20) Rural Business Enterprise grants and Television Demonstration grants.

(21) Section 601 Energy Impacted Area Development Assistance grants.