



Processing Tenant Recertifications:

A Guide for Multifamily Housing Owners and Management Companies

This guide explains the USDA Rural Development tenant recertification process, including rent changes that can occur during recertification or eviction. The guide is to be used for reference only: it is **not** legal advice. Always consult applicable laws, including the Housing Act of 1949, amended (available at this link: [go.usa.gov/xzcvG](https://www.go.usa.gov/xzcvG)), and 7 CFR part 3560 (available at this link: tinyurl.com/CFR-3560).

Recertification Guidance:

As explained in 7 CFR 3560 Subpart D (“Multifamily Housing Occupancy”) and E (“Rents”), USDA Rural Development Multifamily Housing owners and management agents must advise tenants of the requirement to provide an annual recertification of their income. To avoid termination from the program, the tenant must complete all required documentation by the recertification due date.

The Recertification Process (7 CFR 3560.152):

All notices must inform the tenant of the information needed to recertify, the time frame in which the new certification must be submitted to USDA Rural Development, and the consequences for failing to comply.

- Tenant certifications must be signed and dated **no later than** the effective date of the certification, which always falls on the first day of any given month.
- MFH owners and management agents can begin transmitting tenant certifications during the 90-day period **preceding** the effective date – but no later than the tenth day of the effective month.
- Unless USDA Rural Development approves a waiver, tenant certifications must be transmitted using the Management Interactive Network Connection (MINC – available at this link: tinyurl.com/USDA-RD-MINC).
- As explained in 7 CFR 3560.152 and .208, MFH owners and management agents must document that a tenant received notice specifying their tenant recertification date before terminating the tenant’s program participation.

Here is additional guidance from Chapter 6 in Handbook 2-3560:

- An owner or management agent must notify a tenant in writing that they must recertify to remain eligible to live at the property **75-90 days prior** to the date their certification expires.
- If the tenant does not respond to the initial notice, an owner or management agent can issue a second letter **30 days prior** to the certification expiration date.

When Tenants Fail to Recertify (7 CFR 3560.208):

- If an owner or management agent can document that a tenant received notice but failed to comply with recertification requirements, within 10 days of the recertification date, the owner or management agent will provide the tenant and USDA Rural Development written notification that:
 - 1) Termination proceedings are being initiated following 7 CFR 3560.159 (available at this link: tinyurl.com/USDA3560-159)
 - 2) The tenant will continue to be charged rent until the tenant's lease is terminated.
- Since the owner or management agent must document that a tenant **actually received** their recertification notice, we recommend lease termination notices be delivered with a return receipt request.
- Before terminating the lease, the owner or management agent must provide the tenant with written notice indicating they are no longer eligible for occupancy and must vacate the property within 30 days of receiving the notice (or, upon expiration of their lease; whichever time period is greater) unless either of the conditions of 7 CFR 3560.158(c) – (available at this link: tinyurl.com/USDA-3560-158 – PDF) apply. These conditions are:
 - The waiting list for the specific rental unit type has no eligible applicants.
 - The required time period for vacating the rental unit would create a hardship on the tenant household.

- At minimum, the notice must:
 - State a specific date by which lease termination will occur
 - Explain the reason for lease termination, with **specific reference** to the tenant's failure to complete the required recertification
 - Include a statement explaining the conditions under which the owner is permitted to initiate eviction proceedings
- The notice also must advise the tenant of their right to respond within 10 calendar days of the date of the notice, and of their right to a hearing in keeping with 7 CFR 3560.160(f) – (available at this link: tinyurl.com/USDA-3560-158 – PDF)
- The notice must also include the following statement:

Any tenant or prospective tenant seeking occupancy in or use of USDA Rural Development-financed facilities who believes they are being discriminated against because of age, race, color, religion, sex, familial status, disability, or national origin can file a complaint.

Complaints can be filed in person or by U.S. Postal Service to:

- U.S. Department of Agriculture Office of Civil Rights
Room 326–W, Whitten Building
14th and Independence Avenue, SW
Washington DC 20250–9410
- U.S. Department of Housing and Urban Development
The Office of Fair Housing and Equal Opportunity
Room 5204, 451 Seventh St., SW
Washington, DC 20410-2000

NOTE: Complaints received by USDA employees must be directed to the National Office Civil Rights staff through their State Civil Rights Coordinator.

- The notice must be delivered to the tenant by certified mail, return receipt requested, or by hand-delivered letter with a signed, dated acknowledgement of receipt from the tenant.

- In MFH properties with a high number of non-English speaking tenants, the notice must be written in English **and** translated into the predominant foreign language.
- Once the notice of termination has been delivered, owners or management agents must transmit a “Send Eviction” transaction in MINC. Additional guidance is available in the “Processing an Eviction” section below.

When Owners or Management Agents Fail to Recertify Tenants:

- If an owner or management agent cannot document that a tenant received a recertification notice, and a tenant is not recertified within 12 months of the most recently executed tenant certification:
 - The tenant must continue to make the Net Tenant Contribution (NTC) to rent based on their most recent tenant certification.
 - The owner or management agent must cover the difference between the NTC and the Note rent.
 - If the NTC is less than Basic rent, the owner or management agent must pay the difference between Basic rent and the NTC to the property and remit the overage (the difference between Note and Basic rents) to USDA Rural Development.
 - If the NTC is greater than Basic rent, the difference between the NTC and Note rent is overage and must be remitted to USDA Rural Development.
- Rent and overage amounts must be paid from nonproject funds until recertification is complete. (This must be reported with year-end financials on Form RD 3560-7 part 1, line 11 “Non-Operational Cash Sources” – at this link: tinyurl.com/RD-3560-7 – PDF.)

Processing an Eviction:

- When an eviction is first transmitted using MINC, the transaction appears as “pending.” You must email copies of the eviction notice to your assigned USDA Rural Development Multifamily Housing servicing specialist. (You will find a list at this link: tinyurl.com/RD-MFH-DIR.) Your MINC eviction transmission will remain pending until your assigned specialist reviews the documentation.
 - If a certification is marked as an eviction and the tenant certification expires, the tenant will keep the currently applied tenant subsidy code, calculated NTC, and RA Due Tenant, but any RA Due Owner will be set to zero, and Overage will be set to zero.
 - If a certification is marked as an eviction and has **not** expired, the tenant certification is processed in the same manner as if it were not an eviction. NTC will be calculated based on income, RA Due Owner will be given, as appropriate, and Overage will be charged, as appropriate.
- Notices of lease violations and terminations must comply with all state and local laws.
- You are encouraged to seek legal counsel with questions regarding your reasons for pursuing lease termination, or regarding the termination process, itself. Neither USDA Rural Development nor the MINC helpdesk can address legal questions.
- Unless state or local laws direct otherwise, if a tenant appeals an eviction and the owner refuses to accept rent payment during the appeal, the tenant must escrow the required rent payments with the property.

Resources:

- Owners and management agents with questions about tenant certification transmissions can reach the MINC helpdesk by emailing RD.SO.MFH@usda.gov or calling 866-600-7984.
- Here is a link to the MINC webpage: tinyurl.com/USDA-RD-MINC.
- A list of MFH Specialists is available at this link: tinyurl.com/RD-MFH-DIR.
- Information about all USDA Rural Development Multifamily Housing Programs is available at this link: tinyurl.com/RDMultiFamily.