

under Public Law 103-354 determines the release will not adversely affect the Government's interest. Release may be approved when payment is received by FmHA or its successor agency under Public Law 103-354 in the amount of the market value, as determined by FmHA or its successor agency under Public Law 103-354, of the property to be released. Proceeds from such transactions (less related expenses authorized by FmHA or its successor agency under Public Law 103-354) will be applied to the FmHA or its successor agency under Public Law 103-354 indebtedness as an extra payment or to prior liens in order of lien priority.

(b) *Easements, right-of-ways, and lease of mineral rights or other rights.* Consent may be given by FmHA or its successor agency under Public Law 103-354 for the borrower to grant an easement or lease mineral rights when it is determined by FmHA or its successor agency under Public Law 103-354 the action will not adversely affect the Government's interest. The granting of an easement or right-of-way and lease of mineral rights may be approved when payment is received by FmHA or its successor agency under Public Law 103-354 in the amount of the market value, as determined by FmHA or its successor agency under Public Law 103-354, for rights granted or benefits are derived which are equal to or greater than the value of the property being disposed of. Proceeds from these transactions (less related expenses authorized by FmHA or its successor agency under Public Law 103-354) will be applied to the FmHA or its successor agency under Public Law 103-354 debt as an extra payment or to prior liens in order of lien priority.

(c)-(d) [Reserved]

**§ 1951.461 Release of valueless FmHA or its successor agency under Public Law 103-354 lien without monetary consideration.**

Release of an FmHA or its successor agency under Public Law 103-354 lien without monetary consideration may be granted when it is determined by FmHA or its successor agency under Public Law 103-354 to have no present or prospective value or when enforce-

ment would be ineffectual or uneconomical. Judgment liens or statutory redemption rights may be released only with prior consent of OGC.

**§ 1951.462 Deceased borrower.**

When an NP borrower dies, FmHA or its successor agency under Public Law 103-354 will determine whether or not arrangements can be effected for continuation of the loan under one of the provisions of this section. If not, the loan may be liquidated according to § 1951.468 of this subpart. The servicing actions and the circumstances under which they may be considered are outlined in paragraphs (a) through (d) of this section.

(a) *Continue with jointly liable borrower.* If a jointly liable borrower will repay the loan and fulfill other obligations of the loan, FmHA or its successor agency under Public Law 103-354 will take no action to liquidate the loan.

(b) *Assumption by spouse not liable for the FmHA or its successor agency under Public Law 103-354 debt.* The spouse of a deceased borrower who is not liable for the FmHA or its successor agency under Public Law 103-354 debt and who wishes to assume the debt may do so in accordance with § 1951.463(d)(1) of this subpart.

(c) *Continue with joint tenant, tenant by the entirety, or other person.* When a joint tenant, tenant by the entirety, or other person who inherits title to (or an interest in) the security property, on which the principal residence is located, by devise, descent, or operation of law upon the death of a borrower makes payments as scheduled in the promissory note (or assumption agreement), FmHA or its successor agency under Public Law 103-354 may not take action to liquidate the loan as long as the property is adequately maintained, real estate taxes and assessments are paid when due, and the dwelling is not known to be uninsured (if funds for taxes and insurance are being escrowed, the escrow is a part of the scheduled payments). The loan may be assumed in accordance with § 1951.463(d) of this subpart; however, assumption of the indebtedness is not required. Continuation with a joint tenant, tenant by the entirety, or other person under

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the provisions of this paragraph applies only to the transfer of title resulting from death of the borrower; it does not apply to any subsequent transfer of title by the inheritor(s) except by devise, descent, or operation of law upon the death of the inheritors or sale of interests among inheritors to consolidate title. Any other subsequent transfer of title will be treated as a sale and is subject to the requirements of § 1951.463 of this subpart.

(d) *Assumption by a person, other than the spouse, who is not liable for the FmHA or its successor agency under Public Law 103-354 loan.* A person other than the deceased borrower's spouse who wishes to assume the loan for the benefit of persons who were dependent on the deceased borrower at the time of death, without receiving title to the property, may do so in accordance with § 1951.463(d)(1) of this subpart provided:

(1) The residence will continue to be occupied by one or more persons who were dependent on the borrower at the time of death; and

(2) There is reasonable prospect for orderly repayment of the loan and other obligations of the loan will be met.

**§ 1951.463 Transfer of security and assumption of indebtedness.**

When a borrower proposes to sell security property, assumption of the indebtedness may be approved on program or NP terms, as applicable, subject to the provisions of paragraphs (c) and (d) of this section. Assumptions under paragraphs (b)(2), (b)(3), (b)(4), (b)(5) and (d) of this section only are authorized on existing terms. When security property is sold (or title is otherwise conveyed), whether by full conveyance or by land contract, contract-for-deed, or other similar instrument, and the FmHA or its successor agency under Public Law 103-354 debt is not assumed by the purchaser (new owner) or paid in full, the conveyance will not be approved, except as provided in paragraphs (b)(2) and (b)(5) of this section or § 1951.462 of this subpart. If the conveyance is not approved the loan must be liquidated unless FmHA or its successor agency under Public Law 103-354 determines it is not in the Government's best interest. If FmHA or its

successor agency under Public Law 103-354 decides to continue with the loan, the account will be serviced in the borrower's name and the borrower will remain liable for the loan under the terms of the security instrument.

(a) [Reserved]

(b) *General.* The following policies apply to all transfers and assumptions under this subpart:

(1) *Amount of assumption.* Except for transfers covered in paragraphs (b)(2), (b)(3), (b)(4), (b)(5) and (d) of this section, the transferee will assume the lesser of the indebtedness, or current market value as determined by FmHA or its successor agency under Public Law 103-354, less any prior liens and the downpayment.

(2) *Conveyance of security property by borrower to spouse or child.* When a borrower conveys security property to his/her spouse or children, assumption of the indebtedness is not required and FmHA or its successor agency under Public Law 103-354 may not take action to liquidate the loan as long as payments are made as scheduled and other obligations of the loan are met. In the event the transferee(s) wishes to assume the indebtedness, it may be assumed on the terms outlined in paragraph (d)(1) of this section as applicable to the circumstances.

(3) *Withdrawal of jointly liable borrower.* When a stockholder/member/partner/joint operator of an entity who is personally liable on the note withdraws from the entity or dies, and all of the remaining individuals are not personally liable on the note(s), the loan must be assumed by all remaining parties.

(4) *Addition of new transferee(s).* When new stockholders/members/partners/joint operators enter an entity, assumption of the indebtedness is required, however, the indebtedness may be assumed on existing terms. A downpayment based on the unpaid balance of the loan is required when the assumption is closed.

(5) *Conveyance of security property into an inter vivos trust.* When the borrower conveys security property into an inter vivos trust, whereby the borrower does not transfer rights of occupancy in the property, FmHA or its successor agency under Public Law 103-354 may not