

Public Law 103-354 without the signature of the borrower according to §1951.568(a)(5) of this subpart. In these cases, the borrower will be notified by letter of the actions taken with a copy of Forms FmHA or its successor agency under Public Law 103-354 1951-12, "Correction of Loan Account," or 1951-13, "Change in Interest Rate," as applicable, enclosed to reflect the adjustments.

(2) (*Inactive borrower or active borrower with unsecured loan such as collection-only or unsatisfied balance after liquidation*). The County Supervisor will document the facts in the case and submit it to the State Director who will request the advice of OGC on pursuing legal action to effect collection. The State Director will tell OGC what assets, if any, are available from which to collect.

[50 FR 45777, Nov. 1, 1985, as amended at 53 FR 35717, Sept. 14, 1988]

**§§ 1951.559-1951.560 [Reserved]**

**§ 1951.561 Servicing options in lieu of liquidation or legal action.**

When all of the conditions outlined in §1951.558(b) of this subpart are met, servicing options outlined in this section will be considered; and accounts will be serviced according to this section and §1951.568 of this subpart.

(a) *Active borrower*—(1) *Entire loan, or loan servicing unauthorized*. When the entire loan, or all or a portion of primary loan servicing, is determined to be unauthorized because the borrower was not eligible, or because the loan or primary loan servicing was approved for unauthorized purposes, the following alternatives will be considered in the order listed:

(i) Execution of Form FmHA or its successor agency under Public Law 103-354 1965-11, "Accelerated Repayment Agreement," according to §1965.26(e) of subpart A of part 1965 of this chapter, for loans secured by real estate, or re-scheduling according to Subpart A of this part, for loans not secured by real estate, based on the borrower's repayment ability.

(ii) Refinancing with another type of FmHA or its successor agency under Public Law 103-354 loan to repay the unauthorized loan, if the borrower is

eligible for the type loan being considered.

(iii) When the case cannot be handled according to paragraph (a)(1)(i) or (a)(1)(ii) of this section, continuance with the loan on the existing terms may be approved, and the loan will, thereafter, be serviced as an authorized loan.

(2) *Portion of loan unauthorized*. When a portion of a loan is determined to be unauthorized, the Finance Office will be instructed to separate the authorized and unauthorized portions of the loan, setting up each as a separate loan at the correct interest rate. The correct interest rate will be taken from Exhibit C of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) as of the date of loan approval. All payments made on the loan being corrected will be reversed and reapplied to the unauthorized portion. If after reapplication of payments the unauthorized portion is not paid in full, the options outlined in paragraph (a) of this section may be considered for repayment of the balance of the unauthorized portion; and the authorized portion will be serviced as an outlined loan. See §1951.568 of this subpart for instructions on setting up separate accounts.

(3) *Unauthorized interest subsidy benefits received*. When the borrower was eligible for the loan, but should properly have been charged a higher interest rate than that shown in the debt instrument on all or a portion of the loan, resulting in the receipt of unauthorized interest subsidy benefits, the case will be handled as outlined below. The unauthorized interest rate will be corrected to the interest rate in effect on the date the original loan was approved as outlined in paragraph (a)(3)(iii) of this section.

(i) When a subsidized interest rate was incorrectly charged on the entire loan, all payments made will be reversed and reapplied at the correct interest rate; and future installments will be scheduled at the correct interest rate. After reapplication of payments, the loan will be treated as an authorized loan.

(ii) When a subsidized interest rate was incorrectly charged on only a portion of the loan, the Finance Office will

**§§ 1951.562–1951.567**

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be instructed by the County Supervisor to separate the loan into two portions, with the correct interest rate established for the portion having the incorrect subsidized interest rate. All payments made on the loan being adjusted will be reversed and reapplied, first to the portion with the corrected interest rate. After reapplication of payments at the correct interest rate, both portions will be serviced as authorized loans.

(iii) Incorrect interest rates will be corrected as follows referring to Exhibit C of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) for interest rates in effect on specific dates:

(A) For disaster Emergency (EM) loans, to the rate for EM annual production loans.

(B) For Operating Loans—Limited Resource (OL-LR), to the rate for regular Operating Loans (OL).

(C) For Farm Ownership—Limited Resource (FO-LR), to the rate for regular Farm Ownership (FO).

(D) For all other types of FP loans, to the correct rate for the type loan involved which was in effect when the loan was approved.

(b) *Inactive borrower.* When the individual or entity does not have an outstanding account in the records of the Finance Office, the following actions will be taken:

(1) Have the inactive borrower execute a promissory note in the amount of the assistance determined to be unauthorized according to §1951.557 of this subpart. This note will bear interest at the rate which was in effect for the type loan associated with the unauthorized assistance when it was approved. The term will not exceed 10 years or the term of the original loan, whichever is the shorter term.

(2) Take the best lien obtainable on any collateral having equity value to secure the note.

[50 FR 45777, Nov. 1, 1985, as amended at 51 FR 4138, Feb. 3, 1986; 56 FR 33862, July 24, 1991]

**§§ 1951.562–1951.567 [Reserved]**

**§ 1951.568 Account adjustments and reporting requirements.**

When a final determination has been made that unauthorized assistance has been granted, the Finance Office will be notified of necessary account adjustments as outlined in this section, depending upon whether the case of unauthorized assistance was identified by OIG in an audit report or by another means. The Finance Office will service the accounts as prescribed in this section.

(a) *Audit cases.* Only cases of unauthorized assistance identified by OIG will be reported to the Finance Office by submission on Form FmHA or its successor agency under Public Law 103-354 1951-12 completed in accordance with the FMI. The Finance Office will flag the account for monitoring and reporting as required. Each payment reversed will be reapplied as of the original date of credit. "Loan" refers to an account with an active borrower unless specified as "inactive." If the borrower has arranged to repay in a lump sum, the payment will be remitted with Form FmHA or its successor agency under Public Law 103-354 451-2, according to the FMI. Form FmHA or its successor agency under Public Law 103-354 1951-12 will reflect the amount and the Schedule Number.

(1) *Entire loan unauthorized.* When the entire loan is unauthorized because the borrower was not eligible or because the loan was approved for unauthorized purposes, and continuation is authorized, the Finance Office will be advised as follows:

(i) *Accelerated repayment agreement or loan rescheduled.* If the borrower has executed Form FmHA or its successor agency under Public Law 103-354 1965-11 for loans secured by real estate; or has executed Form FmHA or its successor agency under Public Law 103-354 1951-4 for loans not secured by real estate, the form(s) will be prepared and distributed according to the FMIs, attaching the original form(s) to Form FmHA or its successor agency under Public Law 103-354 1951-12.