

**§ 1951.890**

(2) The total indebtedness may be transferred to another eligible intermediary on different terms not to exceed those terms for which an initial loan can be made to an organization that would have been eligible originally.

(3) Less than total indebtedness may be transferred to another eligible intermediary on the same terms.

(4) Less than total indebtedness may be transferred to another eligible intermediary on different terms.

(c) The transferor will prepare the transfer document for FmHA or its successor agency under Public Law 103-354's review prior to the transfer and assumption.

(d) The transferee will provide FmHA or its successor agency under Public Law 103-354 with a copy of its latest financial statement and a copy of its annual financial statement for the past 3 years if available; its Federal Tax Identification number; organizational charter; minutes from the Board of Directors authorizing the transaction; certification of good standing from the Secretary of State or whatever regulatory agency oversees nonprofit corporations for that State or Commonwealth where the entity is headquartered; and any other information that FmHA or its successor agency under Public Law 103-354 deems necessary for its review.

(e) The assumption agreement will contain the FmHA or its successor agency under Public Law 103-354 case number of the transferor and transferee.

(f) When the transferee makes a cash downpayment in connection with the transfer and assumption, any proceeds received by the transferor will be credited on the transferor's loan debt in inverse order of maturity.

(g) The Administrator or designee will approve or decline all transfers and assumptions.

**§ 1951.890 Office of Inspector General and Office of General Counsel referrals.**

When facts or circumstances indicate that criminal violations, civil fraud, misrepresentations, or regulatory violations may have been committed by an applicant or an intermediary,

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FmHA or its successor agency under Public Law 103-354 will refer the case to the appropriate Regional Inspector General for Investigations, OIG, USDA, in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2012-B (available in any FmHA or its successor agency under Public Law 103-354 office) for criminal investigation. Any questions as to whether a matter should be referred will be resolved through consultation with OIG and FmHA or its successor agency under Public Law 103-354 and confirmed in writing. In order to assure protection of the financial and other interests of the Government, a duplicate of the notification will be sent to the OGC. OGC will be consulted on legal questions. After OIG has accepted any matter for investigation, FmHA or its successor agency under Public Law 103-354 staff must coordinate with OIG in advance regarding routine servicing actions on existing loans.

**§ 1951.891 Liquidation; default.**

(a) In the event that FmHA or its successor agency under Public Law 103-354 takes over the servicing of the ultimate recipient of an intermediary, those loans will be serviced by this regulation and in accordance with the contractual arrangement between the intermediary and the ultimate recipient. Should the FmHA or its successor agency under Public Law 103-354 determine that it is necessary or desirable to take action to protect or further the interests of FmHA or its successor agency under Public Law 103-354 in connection with any default or breach of conditions under any loan made hereunder, the FmHA or its successor agency under Public Law 103-354 may:

(1) Declare that the loan is immediately due and payable.

(2) Assign or sell at public or private sale, or otherwise dispose of for cash or credit at its discretion and upon such terms and conditions as FmHA or its successor agency under Public Law 103-354 shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property or security assigned to or held by the FmHA or its successor agency under Public Law 103-354 in connection with financial assistance extended hereunder.

(3) Adjust interest rates, use fixed or variable rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by FmHA or its successor agency under Public Law 103-354 and take such actions in respect to such loans as are necessary or appropriate, consistent with the purpose of the program and this subpart. The Administrator will notify the FmHA or its successor agency under Public Law 103-354 Finance Office of any change in payment terms, such as reamortizations or interest rate adjustments, and effective dates of any changes resulting from servicing actions.

(b) Failure by an ultimate recipient to comply with the provisions of these regulations and/or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of its loan.

(c) Failure by an intermediary to comply with the provisions of these regulations or to relend funds in accordance with an approved work plan or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(d) In the event of default, the intermediary will promptly be informed in writing of the consequences of failing to comply with loan covenant(s).

(e) Protective advances to the intermediary will not be made in lieu of additional loans, in particular working capital loans. Protective advances are advances made by FmHA or its successor agency under Public Law 103-354 for the purpose of preserving and protecting the collateral where the intermediary has failed to and will not or cannot meet its obligations. The Administrator or designee must approve in writing all protective advances.

(f) In the event of bankruptcy by the intermediary and/or ultimate recipient, FmHA or its successor agency under Public Law 103-354 is responsible for protecting the interests of the Government. All bankruptcy cases should be reported immediately to the Regional Attorney. The Administrator must approve in advance and in writing the estimated liquidation expenses on loans in liquidation bankruptcy. These expenses must be considered by FmHA

or its successor agency under Public Law 103-354 to be reasonable and customary.

(g) Liquidation, management, and disposal of inventory property will be handled in accordance with subparts A, B, and C of part 1955 of this chapter.

**§§ 1951.892-1951.893 [Reserved]**

**§ 1951.894 Debt settlement.**

Debt settlement of all claims will be handled in accordance with the Federal Claims Collection Standards (4 CFR parts 101-105).

**§ 1951.895 [Reserved]**

**§ 1951.896 Appeals.**

Any appealable adverse decision made by FmHA or its successor agency under Public Law 103-354 which affects the borrower may be appealed upon written request of the aggrieved party in accordance with subpart B of part 1900 of this chapter.

**§ 1951.897 Exception authority.**

The Administrator may, in individual cases, grant an exception to any requirement or provision of this subpart which is not inconsistent with an applicable law or opinion of the Comptroller General, provided the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The basis for this exception will be fully documented. The documentation will: demonstrate the adverse impact; identify the particular requirement involved; and show how the adverse impact will be eliminated.

**§§ 1951.898-1951.899 [Reserved]**

**§ 1951.900 OMB control number.**

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB Control Number 0575.0131. In accordance with 5 CFR part 1320, summarized below is the annualized public reporting burden for this regulation.