

issued to provide explicit instructions. For MFH, eviction of tenants will be handled in accordance with Subpart L of Part 1944 of this chapter and with the terms of the tenant's lease. If no written lease exists, the State Director will obtain advice from OGC.

[54 FR 20522, May 12, 1989]

**§ 1955.62 Removal and disposition of nonsecurity personal property from inventory real property.**

If the former borrower has vacated the inventory property but left items of value which do not customarily pass with title to the real estate, such as furniture, personal effects, and chattels not covered by an FmHA or its successor agency under Public Law 103-354 lien, the personal property will be handled as outlined below unless otherwise directed by a State supplement approved by OGC which is necessary to comply with State law. For MFH, the removal and disposition of nonsecurity personal property will be handled in accordance with the tenant's lease or advice from OGC. When property is deemed to have no value, it is recommended that it be photographed for documentation before it is disposed of. The FmHA or its successor agency under Public Law 103-354 official having custody of the property may request advice from the State Office staff as necessary. Actions to effect removal of items of value from inventory property shall be as follows:

(a) *Notification to owner or lienholder.* The servicing official will check the public records to see if there is a lien on any of the personal property.

(1) If there is a lien(s) of record, the servicing official will notify the lienholder(s) by certified mail, return receipt requested, that the personal property will be disposed of by FmHA or its successor agency under Public Law 103-354 unless it is removed from the premises within 7 days from the date of the letter.

(2) If there are no liens of record, or if a lienholder notified in accordance with paragraph (a)(1) of this section fails to remove the property within the time specified, the servicing official will notify the former borrower at the last known address by certified mail, return receipt requested, that the per-

sonal property remaining on the premises will be disposed of by FmHA or its successor agency under Public Law 103-354 unless it is removed within 7 days from the date of the letter. If no address can be determined, a copy of the letter should be posted on the front door of the property and documentation entered in the running record of the FmHA or its successor agency under Public Law 103-354 file.

(b) *Disposal of unclaimed personal property.* If the property is not removed by the former borrower or a lienholder after notification as outlined in paragraphs (a)(1) and (a)(2) of this section, the servicing official shall list the items with clear description, estimated value, and indication of which are covered by a lien, if any, and submit the list to the State Director with a request for authorization to have the items removed and disposed of. Based on advice from OGC, the State Director will give authorization and provide instructions for removal and disposal of the personal property. If approved by OGC, the property may be disposed of as follows:

(1) If a reasonable amount can likely be realized by FmHA or its successor agency under Public Law 103-354 from sale of the personal property, it may be sold at public sale. Items under lien will be sold first and the proceeds up to the amount of the lien paid to the lienholder(s) less a pro rata share of the sale expenses. Proceeds from sale of items not under lien and proceeds in excess of the amount due a lienholder will be remitted according to FmHA or its successor agency under Public Law 103-354 Instruction 1951-B (available in any FmHA or its successor agency under Public Law 103-354 office) and applied in the following order:

(i) To the inventory account up to the amount of expenses incurred by the Government in connection with sale of the personal property (such as advertising and auctioneer, if used).

(ii) To an unsatisfied balance on the FmHA or its successor agency under Public Law 103-354 loan account, if any.

(iii) To the borrower, if whereabouts are known.

(2) If personal property is not sold, a mover or hauler may be authorized to

take the items for moving costs. Refer to FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office) for guidance.

(c) *Payment of costs.* Upon payment of all expenses incurred by the Government in connection with the personal property, FmHA or its successor agency under Public Law 103-354 will allow the former borrower or a lienholder access to the property to reclaim the personal property at any time prior to its disposal.

(d) *Removal of abandoned motor vehicles from inventory property.* Since State laws vary concerning disposal of abandoned motor vehicles, the State Director shall, with the advice of OGC, issue a State supplement outlining the method to be followed which will comply with applicable State laws.

#### § 1955.63 Suitability determination.

As soon as real property is acquired, a determination must be made as to whether or not the property can be used for program purposes. The suitability determination will be recorded in the running record of the case file.

(a) *Determination.* Property which secured loans or was acquired under the CONACT will be classified as suitable or surplus in accordance with the definitions for "suitable" and "surplus" found in §1955.53 of this subpart. For FSA property, the county committee will make this determination. For other agencies, this determination will be made by the State Director, or designee.

(b) *Grouping and subdividing farm properties larger than family-size.* The county official will subdivide farm properties larger than family-size whenever possible into parcels for the purpose of creating one or more suitable farm properties. Properties may also be subdivided to facilitate the granting or selling of a conservation easement or the fee title transfer of portions of a property for conservation purposes. Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the direct farm ownership loan limit of \$200,000 or the guaranteed farm owner-

ship loan limit of \$300,000. The county official may also group two or more individual properties into one or more suitable farm properties. The environmental effects will also be considered pursuant to subpart G of part 1940 of this chapter. Also refer to §1955.140 of subpart C of this part.

(c) *Housing property.* Property which secured housing loans will be classified as "program" or "nonprogram (NP)." After a determination of whether the property is suited for retention in the respective program, the repair policy outlined in §1955.64(a) of this subpart will be followed. In determining whether a property is suited for retention in the program, items such as size, design, possible health and/or safety hazards and obsolescence due to functional, economic, or locational conditions must carefully be considered. Generally, program property will meet, or can be realistically repaired to meet, the standards for existing housing outlined in Subpart A of Part 1944 of this chapter provided the property is typical of modest homes in the area. The cost of repairs will generally not be considered in determining suitability. Since houses, sites and locations vary widely throughout the country, discretion and sound judgment must be used in determining suitability. The majority of houses RHS acquires will be suited for retention and classified as program property. In some instances, property will not be suited for retention in the program and will be classified as "nonprogram (NP)" property. Situations of this type include, but are not limited to:

(1) A dwelling which has been enlarged or improved to the point where it is clearly above modest.

(2) When a determination is made that the property should not have been financed originally.

(3) A dwelling brought into the program as an existing dwelling which met program standards at the time it was originally financed by the Agency but which does not conform to current policies. This includes older and/or larger houses of a type which have proven to create excessive energy and/or maintenance costs to very-low and low-income borrowers.