

§ 1962.28

under Public Law 103-354 460-4, "Satisfaction," or other form approved by the State Director. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the borrower's case file. However, if the State supplement based on State law requires recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor. When State statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FmHA or its successor agency under Public Law 103-354 460-4 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions according to Statesupplements. In such cases, Form FmHA or its successor agency under Public Law 103-354 460-4 will not be prepared but a notation of the satisfaction will be made on the copy of Form FmHA or its successor agency under Public Law 103-354 451-1, "Acknowledgment of Cash Payment," or Form FmHA or its successor agency under Public Law 103-354 456-3, "Journal Voucher for Write-Off or Judgment," which will be retained in the borrower's case folder.

(e) *Satisfaction or termination of lien when old loans cannot be identified.* When a request is received for the satisfaction of a crop or chattel lien, or for the termination of a financing statement and the status of the account secured by the lien cannot be ascertained from County Office records, the County Supervisor will prepare a letter to the Finance Office reflecting all the pertinent information available in the County Office regarding the account. The letter will request the Finance Office to tell the County Supervisor whether the borrower is still indebted to FmHA or its successor agency under Public Law 103-354 and, if so, the status of the account. If the Finance Office reports to the County Supervisor that the account has been paid in full or otherwise satisfied or that there is no record of an indebtedness in the name of the borrower, the County Supervisor is authorized to issue a sat-

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isfaction of the security instruments on Form FmHA or its successor agency under Public Law 103-354 460-4 or other approved form or to effect the satisfaction by marginal release, or a termination on Form FmHA or its successor agency under Public Law 103-354 462-12 as appropriate.

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§ 1962.29 Payment of fees and insurance premiums.

(a) *Fees.* (1) Security instruments. Borrowers must pay statutory fees for filing or recording financing statements or other security instruments (including Form FmHA or its successor agency under Public Law 103-354 462-12, or other renewal statements) and any notary fees for executing these instruments. They also must pay costs of obtaining lien search reports needed in properly servicing security as outlined in this subpart. Whenever possible, borrowers should pay these fees directly to the officials giving the service. When cash is accepted by FmHA or its successor agency under Public Law 103-354 employees to pay these fees, Form FmHA or its successor agency under Public Law 103-354 440-12, "Acknowledgment of Payment for Recording, Lien Search and Releasing Fees," will be executed. If the borrower cannot pay the fees, or if there are fees referred to in paragraphs (a) (2) and (3) of this section that must be paid by FmHA or its successor agency under Public Law 103-354, the County Supervisor may pay them as a petty purchase or as the bill of a creditor of FmHA or its successor agency under Public Law 103-354 in accordance with FmHA or its successor agency under Public Law 103-354 Instructions 2024-E, copies of which are available in any FmHA or its successor agency under Public Law 103-354 office.

(2) Satisfactions. The borrower must pay fees for filing or recording satisfactions or termination statements unless a State supplement based on State law requires FmHA or its successor agency under Public Law 103-354 to pay them.

(3) Notary fees. FmHA or its successor agency under Public Law 103-354 will pay fees for notary service for executing releases, subordinations, and related documents for and on behalf of

FmHA or its successor agency under Public Law 103-354 if the service cannot be obtained without cost.

(b) *Insurance premiums.* County Supervisors are authorized to voucher for the payment of bills for insurance premiums on chattel security, in accordance with 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). Bills may be paid when:

(1) A borrower cannot pay the premiums from the borrower's own resources at the time due;

(2) Anticipated crop income does not materialize which would normally be released for the payment of crop insurance.

(3) It is not practical to process a loan for that purpose;

(4) It is necessary to protect FmHA or its successor agency under Public Law 103-354's interests; and

(5) The amount advanced can be charged to the borrower under the provisions of the security instrument.

[50 FR 45783, Nov. 1, 1985, as amended at 53 FR 35785, Sept. 14, 1988; 56 FR 15825, Apr. 18, 1991; 57 FR 36592, Aug. 14, 1992]

§ 1962.30 Subordination and waiver of liens on chattel security.

(a) *Purposes.* Subject to the limitations set out in paragraph (b) of this section, the Agency chattel liens may be subordinated to a lien of another creditor in either of the following situations:

(1) The prior lien will soon mature or has matured and the prior lienholder desires to extend or renew the obligation, or the obligation can be refinanced. The relative lien position of the Agency must be maintained; and

(2) The subordination will permit another creditor to refinance other debt or lend for an authorized direct loan purpose.

(b) *Conditions.* Agency chattel liens may be subordinated to a lien of another creditor if all of the following conditions are met:

(1) If the lien is on basic chattel security, the amount of subordination is necessary to provide the lender with the security it requires to make the loan;

(2) Approval of a subordination is limited to a specific amount and the loan to be secured by the subordination is closed within a reasonable time;

(3) Only one subordination to one creditor may be outstanding at any one time in connection with the same security;

(4) The borrower has not been convicted of planting, cultivating, growing, producing, harvesting or storing a controlled substance under Federal or state law. "Borrower" for purposes of this provision, specifically includes an individual or entity borrower and any member stockholder, partner, or joint operator, of an entity borrower and any member, stockholder, partner, or joint operator of an entity borrower. "Controlled substance" is defined at 21 CFR part 1308. The borrower will be ineligible for a subordination for the crop year in which the conviction occurred and the four succeeding crop years. Applicants must attest on the Agency application form that it and its members, if an entity, have not been convicted of such a crime;

(5) The loan funds will not be used in such a way that will contribute to erosion of highly erodible land or conversion of wetlands for the production of an agricultural commodity according to subpart G of part 1940 of this chapter;

(6) The borrower can document the ability to repay the total amount due under the subordination and pay all other debt payments scheduled for the subject operating cycle; and

(7) The Agency loan is still adequately secured after the subordination, or the value of the loan security will be increased by at least the amount of the advances to be made under the terms of the subordination.

(c) *Subordination to make a guaranteed loan.* In addition to the requirements of this section, subordinations on chattel security to make a guaranteed loan will be approved in accordance with §1980.108 of subpart B of part 1980 of this chapter.

(d) *Forms.* Subordinations will be requested and executed on Agency forms available in any Agency office or on any other form approved by the Agency.