

been exhausted for a period of 15 months. This determination is not related to the length of time the particular project has been on the waiting list. The National Office will periodically advise State Offices of the status of the waiting list and the availability of funds.

§ 1965.219 FmHA or its successor agency under Public Law 103-354 processing of prepayment.

When a prepayment is accepted in accordance with § 1965.218 of this subpart, the Servicing Office will process the prepayment in accordance with the applicable provisions of § 1965.215 (e)(1), (2), (3), (4), and (8) of this subpart.

§§ 1965.220-1965.221 [Reserved]

§ 1965.222 Violations of restrictive-use provisions.

Should the Servicing Office receive a written complaint or become otherwise aware of a violation of the prepayment restrictive-use provisions set out in exhibit A-3 or A-4 of this subpart or the Restrictive-Use Agreements set out in exhibits G-1 thru 4 of this subpart by the owner of a previously FmHA or its successor agency under Public Law 103-354-financed project, the following actions will be taken:

(a) The complainants will be informed that they may pursue enforcement through the courts.

(b) The Servicing Office or other designated office will conduct a preliminary evaluation of the complaint. This evaluation may necessitate the gathering of additional information. Should the preliminary evaluation indicate the complaint is not valid, the complainant will be so informed. Should the preliminary evaluation indicate the complaint is or may be valid, then the complaint, all facts gathered, an evaluation report, and Servicing Office recommendation will be forwarded to the State Office or other designated office for review and action.

(c) If the State Office or other designated office determines that a violation of the restrictive-use provisions has likely occurred, the Administrator will be notified. The State Office or other designated office will ask the OGC to provide advice in such cases and, if appropriate, refer the case to

the Department of Justice or other appropriate agency for enforcement. A copy of any complaint requesting enforcement of the restrictive-use provisions submitted to the Department of Justice or other appropriate agency should also be forwarded to the Administrator.

§ 1965.223 Relationship with acceleration of accounts, bankruptcy, foreclosure, or inventory properties.

(a) *Acceleration of accounts.* Accelerations of accounts will be prepared in accordance with FmHA or its successor agency under Public Law 103-354 Guide Letters 1955-A-1 or 1955-A-2 (available in any FmHA or its successor agency under Public Law 103-354 office). Any FmHA or its successor agency under Public Law 103-354 loan made after December 21, 1979, prepaid in response to an acceleration of the account will be required to have the appropriate restrictive-use language inserted in the deed of release or satisfaction, as appropriate upon the advice of OGC. Any FmHA or its successor agency under Public Law 103-354 loan made on or before December 21, 1979, with payment-in-full made in response to an acceleration of the account, will be required to have the appropriate restrictive-use language inserted on the instrument recorded in the real estate records, as appropriate upon the advice of OGC, only if the payment occurs within 1 year after the borrower had initiated a request to prepay the loan(s). The restrictions used will be those contained in exhibit A-3 of this subpart for loans subject to restrictive-use provisions or prohibited from prepaying. The restrictive-use period will extend for the remaining term of the accelerated loan or length of the existing restrictive-use period, whichever is applicable.

(b) *Foreclosure.* If a project is sold out of the program at a foreclosure sale, the restrictive-use provisions will be retained and added to the deed in accordance with exhibit A-3 or A-4 of this subpart and paragraph (a) of this section.

(c) *Inventory property.* Restrictive-use provisions will be retained for projects taken into or sold out of FmHA or its successor agency under Public Law 103-

§ 1965.224

354 inventory in accordance with exhibits A-1 through A-4 of this subpart and paragraph (a) of this section, unless a determination is made in accordance with §1965.215 and exhibit E of this subpart that the restrictions may be released or that the property is determined non-program property. Tenants will receive all appropriate notifications as they would for prepaying projects not being accelerated.

(d) *Bankruptcy*. Bankruptcy proceedings will have no effect on contractual requirement for restrictive-use.

§ 1965.224 Prepayment of loans caused by advance payments on the account.

If the loan on a project, in which the last loan to build or acquire new units was obligated prior to December 15, 1989, reaches or falls below six remaining payments due to borrower voluntary advance payments or mandatory extra payments required by FmHA or its successor agency under Public Law 103-354 regulation or law, the borrower will be notified that the final payment on the account cannot be accepted unless a prepayment request is made. FmHA or its successor agency under Public Law 103-354 will inform the borrower that, by law, prepayment regulations must be followed for all loans requesting prepayment subsequent to enactment of the law. The borrower will be required to submit all applicable information required by §1965.205 of this subpart and complete all applicable actions required by this subpart before a final payment can be accepted.

§§ 1965.225-1965.248 [Reserved]

§ 1965.249 Exception authority.

The Administrator may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government, adversely affect the accomplishment of the purposes of the RRH or LH programs, or result in undue hardship on the tenants by applying the requirements. The Administrator may exercise the authority at the request of the

7 CFR Ch. XVIII (1-1-01 Edition)

State Director. The State Director will submit the request supported by data that demonstrates the adverse impact, citing the particular requirement involved and recommending proper alternative course(s) of action, and outlining how the adverse impact could be mitigated. Exception to any requirement may also be initiated by the Assistant Administrator for Housing.

§ 1965.250 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0155. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 5 hours per response, with an average of 1.3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB control number 0575-0155), Washington, DC 20503.

EXHIBITS TO SUBPART E

EXHIBIT A-1—REQUIRED CLAUSES FOR ACTIVE BORROWERS WITH PROJECTS SUBJECT TO RESTRICTIVE-USE PROVISIONS AS A RESULT OF SPECIFIC LOAN MAKING OR LOAN SERVICING ACTIONS

The following Multi-Family Housing projects are subject to restrictive-use provisions as set forth in their loan documents or security instruments:

- (a) All loans approved between December 21, 1979, and December 15, 1989;
- (b) Subsequent loans not made to build or acquire new units approved on or after December 15, 1989;
- (c) Any loans approved prior to December 21, 1979, and subsequently made subject to restrictive-use provisions due to a servicing action (e.g., transfer, reamortization, consolidation) as described in subpart B of part 1965 of this chapter, or an incentive to deter