

## RHS, RBS, RUS, FSA, USDA

## § 1980.401

(1) Submission of false or inaccurate information by the Lender;

(2) Submission of false or inaccurate information by the borrower;

(3) Error by RHS personnel; or

(4) Error by the Lender.

(c) [Reserved]

(d) [Reserved]

(e) *Categories of unauthorized assistance*—(1) *Minor deficiency*. A minor deficiency is one that does not change the eligibility of the borrower, the eligibility of the property, or amount of the loan. Such incidents will be brought to the Lender's attention in writing. Examples of minor deficiencies include improperly completed builder certifications, use of an outdated credit report, or use of an outdated income verification. Minor deficiencies also include those significant deficiencies when the Lender is willing and able to correct the problem such as obtaining flood insurance for a dwelling located in a flood hazard area and assuring the escrow amount is sufficient.

(2) *Significant deficiency*. A significant deficiency is one that creates a significant risk of loss to the Government, or involves acceptance of a borrower or property not permitted by Agency regulations. Such cases may result in probation or withdrawal of the Lender's approval for program participation. Examples of significant deficiencies include gross miscalculation of income, acceptance of property that is severely deficient of the required standards, missing builder certifications, and construction changes that materially affect value without proper change orders.

(3) *Fraud or misrepresentation*. A deficiency that involves an action by the Lender to misrepresent either the financial capacity of the borrower or the condition of the property being financed may, in addition to any criminal and civil penalties, result in a withdrawal of RHS approval, or debarment. Examples of this type of deficiency include falsified Verifications of Employment, false certifications, reporting a delinquent loan as being current, and omitting conditions relating to the health and safety of a property.

(f) *Borrower noncompliance*. When the borrower receives unauthorized assist-

ance due to an error or oversight, the Lender may continue with the guaranteed loan. More serious violations will be viewed on a case-by-case basis by the National office.

(g) *RHS error oversight*. When the borrower receives unauthorized assistance solely due to an error or oversight by RHS, the Lender may continue with the guaranteed loan.

### § 1980.399 Appeals.

The borrower and the Lender respectively can appeal an RHS administrative decision that directly and adversely impacts them. Decisions made by the Lender are not covered by this paragraph even if RHS concurrence is required before the Lender can proceed. Appeals will be conducted in accordance with the rules of the National Appeals Division, USDA.

(a) *Appealable decisions*. (1) The borrower and the Lender must jointly execute the written request for an alleged adverse decision made by RHS. The Lender need not be an active participant in the appeal process.

(2) The Lender only may appeal cases where RHS has denied or reduced the amount of a loss payment to the Lender.

(b) *Nonappealable decisions*. (1) The Lender's decision as to whether to make a loan is not subject to appeal.

(2) The Lender's decision to deny servicing relief is not subject to appeal.

(3) The Lender's decision to accelerate the account is not subject to appeal.

### § 1980.400 [Reserved]

## Subpart E—Business and Industrial Loan Program

SOURCE: 52 FR 6501, Mar. 4, 1987, unless otherwise noted.

### § 1980.401 Introduction.

(a) Direct Business and Industry (B&I) loans are disbursed by the Agency under this subpart. B&I loan guarantees are to be processed and serviced under the provisions of subparts A and B of part 4279 and subpart B of part 4287 of this title. Any processing or servicing activity conducted pursuant to