

requirements as set forth in paragraph (a) of this section. These types of lenders must be approved by the FmHA or its successor agency under Public Law 103-354 Administrator prior to the issuance of the loan guarantee.

(b) With written concurrence of FmHA or its successor agency under Public Law 103-354, another eligible lender may be substituted for a lender who holds an outstanding Form FmHA or its successor agency under Public Law 103-354 449-14, "Conditional Commitment for Guarantee," provided the borrower, loan purposes, scope of the project, and loan terms remain unchanged. After issuance of the Loan Note Guarantee and with prior written approval of the FmHA or its successor agency under Public Law 103-354 Administrator, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all original loan requirements including liabilities, servicing responsibilities, and acquiring legal title to the unguaranteed portion of the loan. Such approval will be granted by the FmHA or its successor agency under Public Law 103-354 Administrator only when a lender discontinues lending operations or other extreme situations require a substitution of lender. If approved by the FmHA or its successor agency under Public Law 103-354 Administrator, the State Director will submit to the Finance Office Form FmHA or its successor agency under Public Law 103-354 1980-42, "Notice of Substitution of Lender."

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29171, June 26, 1991]

§ 1980.819 Loan guarantee limits.

The percentage of guarantee, up to the maximum allowed by this section, is a matter for negotiation between the lender and FmHA or its successor agency under Public Law 103-354.

(a) Normally, guarantees will not exceed 80 percent unless extraordinary circumstances exist. The State Director will document these circumstances in the case file. National Office concurrence is required when the requested guarantee exceeds 80 percent. The maximum allowable guarantee will be 90 percent.

(b) Lenders and borrowers will propose the percentage of guarantee. FmHA or its successor agency under Public Law 103-354 informs lenders and borrowers in writing on Form FmHA or its successor agency under Public Law 103-354 449-14, of any percentage of guarantee less than proposed by the lender and borrower, and the reasons therefore. FmHA or its successor agency under Public Law 103-354 determines the percentage of guarantee after considering all credit factors involved, including but not limited to:

- (1) Borrower's management.
- (2) Collateral.
- (3) Financial condition.

(4) Lender's exposure (retain a minimum of 5% of the total guaranteed loan(s) amount. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another.)

(5) Current trends and economic conditions.

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29171, June 26, 1991]

§§ 1980.820-1980.822 [Reserved]

§ 1980.823 Interest rates.

(a) Rates will be negotiated between the lender and the borrower. They may be either fixed or variable rates as long as they are legal. Interest rates will be those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA or its successor agency under Public Law 103-354 review and approval. FmHA or its successor agency under Public Law 103-354 will take into consideration in approving the lender's interest rate, the rate at which guaranteed loans are being sold or traded in the secondary market.

(b) A variable interest rate must be tied to a base rate published periodically in a recognized national or regional financial publication specifically agreed to by the lender and borrower. Notice of any interest rate change proposed by the lender should allow a sufficient time period for the borrower to obtain any required state or other regulatory approval and to implement any user rate adjustments necessary as a result of the interest rate change. The interest rate will not