

§ 1980.870

lender will provide FmHA or its successor agency under Public Law 103-354 with a written certification at the end of construction that all funds were utilized for authorized purposes. The lender will also certify that the FmHA or its successor agency under Public Law 103-354 design policies have been met. The lender will monitor the progress of construction and undertake the reviews and project inspections necessary to reasonably assure that funds are used for eligible project costs and that problems in project development are expeditiously reported to the District Director.

§ 1980.870 Loan servicing.

The lender will be responsible for servicing the entire loan in accordance with the lender's loan agreement. The lender will notify FmHA or its successor agency under Public Law 103-354 of any violations of the lender's loan agreement.

(a) The lender will require, at a minimum, annual audited financial statements which will be reviewed by the lender and a copy forwarded to the FmHA or its successor agency under Public Law 103-354 District Office with a summary evaluation by the lender. After receipt of the evaluation, the District Director will determine if a joint FmHA or its successor agency under Public Law 103-354 lender and borrower site visit will be necessary. Site visits will be conducted at least once every three years but may be scheduled more frequently if conditions warrant. Delinquent borrowers will be visited at least annually. The State Director may waive the audit requirement for financial statements for borrowers with gross annual income of less than \$100,000.

(b) The District Director or his/her designated representative will meet annually with each lender or his/her agent with whom a CP loan guarantee is outstanding. At this meeting, a review will be made of the lender's performance in loan servicing and a determination of any future actions needed. This meeting will be documented in the running record for each borrower serviced by the lender and followed by

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a letter to the lender. The letter shall be placed in each borrower's case file.

[55 FR 11139, Mar. 27, 1990, as amended at 56 FR 29173, June 26, 1991]

§ 1980.871 Loan classification.

All CP guaranteed loans will be classified by FmHA or its successor agency under Public Law 103-354 at loan closing and again whenever there is a change in the loan which would impact on the original classification. The loans will be classified as set out at §1904.104 of subpart C of part 1904 of this chapter.

[56 FR 29173, June 26, 1991]

§ 1980.872 Defaults by borrower.

(a) In case of any monetary or significant non-monetary default under the loan agreement, the lender is responsible for arranging a meeting with the District Director or designated representative and borrower to resolve the problem. A memorandum of the meeting listing the individuals in attendance and summarizing the problem and proposed solution will be prepared by the FmHA or its successor agency under Public Law 103-354 representative and retained in the loan file. When the District Director receives a notice of default on a loan, he/she will immediately notify the State Office in writing of the details. The District Director will notify the lender and borrower of any decision reached by FmHA or its successor agency under Public Law 103-354.

(b) In considering servicing options, some of which are identified in paragraph X. A of Form FmHA or its successor agency under Public Law 103-354 449-35, the prospects for providing a permanent cure without adversely affecting the risks to FmHA or its successor agency under Public Law 103-354 and the lender must become the paramount objective. Within the State Director's authority, temporary curative actions such as payment deferments or collateral subordination, must strengthen the loan and be in the best interest of the lender and FmHA or its successor agency under Public Law 103-354. Some of these actions may require concurrence of the holder(s).

(c) If the loan was closed with the multi-note option, the lender may need to possess all notes to take some servicing action. In these situations when FmHA or its successor agency under Public Law 103-354 is holder of some of the notes, the State Director may endorse the notes back to the lender after the State Director has sought the advice and guidance of the Office of the General Counsel (OGC), provided a proper receipt is received from the lender which defines the reason for the transfer. Under no circumstances will FmHA or its successor agency under Public Law 103-354 endorse the original Form FmHA or its successor agency under Public Law 103-354 449-34 to the lender.

(d) When the State Office determines it is necessary on individual cases, due to some special servicing requirements, it may, at its option, assume the servicing responsibility.

(e) The State Director will report all delinquent and problem loans quarterly to the appropriate National Office program division by the 20th day of January, April, July, and October.

(f) The District Director will notify the Finance Office on Form FmHA or its successor agency under Public Law 103-354 1980-47 of any change in payment terms such as reamortizations or interest rate adjustments and effective dates of any changes resulting from servicing actions.

[55 FR 11139, Mar. 27, 1990. Redesignated and amended at 56 FR 29173, June 26, 1991]

§ 1980.873 Liquidation.

Liquidation will be conducted in accordance with the lender's loan agreement and § 1980.64 of subpart A of this part.

(a) State Directors are authorized to approve lender liquidation plans as authorized on separate written approval authorities issued in accordance with subpart A of part 1901 of this chapter. Within delegated authorities, the State Director may approve a written partial liquidation plan submitted by the lender covering collateral that must be immediately protected or cared for in order to preserve or maintain its value. Approval of the partial liquidation plan must be in the best interest of the government. The approved partial liquida-

tion plan is only good for those actions necessary to immediately preserve and protect the collateral and must be followed by a complete liquidation plan prepared by the lender in accordance with the requirements of the lender's agreement.

(b) Collateral acquired by the lender can only be released after a complete review of the proposal.

(1) There may be instances when the lender acquires the collateral of a borrower where the cost of liquidation exceeds the potential recovery value of the security. Whenever this occurs, the lender with the concurrence of FmHA or its successor agency under Public Law 103-354, can abandon the collateral in lieu of liquidation.

(2) Sale of acquired collateral to the former borrower, former borrower's stockholder(s) or officer(s), or the lender or lender's stockholder(s) or officer(s), will require the concurrence of FmHA or its successor agency under Public Law 103-354.

(c) FmHA or its successor agency under Public Law 103-354 will exercise the option to liquidate only when there is reason to believe the lender is not likely to initiate liquidation efforts that will result in maximum recovery. When there is reason to believe the lender will not initiate efforts that will maximize recovery through liquidation, the State Director will forward the lender's liquidation plan, if available, with appropriate recommendations along with the State Director's exceptions to the lender's plan to the Director of the appropriate program division for evaluation and approval or rejection of the State Director's recommendation. The State Director has no authority to exercise the option to liquidate without National Office approval. When FmHA or its successor agency under Public Law 103-354 liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral. In such instances the State Director will send to the Finance Office Form FmHA or its successor agency under Public Law 103-354 1980-45, "Notice of Liquidation Responsibility" to notify the Finance Office that FmHA or its successor agency under Public