

State Director shall determine that there will be no adverse changes in the borrower's financial situation and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

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

§ 1980.876 Bankruptcy.

(a) It is the lender's responsibility to protect the guaranteed loan debt and all the collateral securing it in bankruptcy proceedings. These responsibilities include but are not limited to the following:

(1) The lender will file a proof of claim where necessary and all the necessary papers and pleadings concerning the case.

(2) The lender will attend and where necessary participate in meetings of the creditors and all court proceedings.

(3) The lender, whose collateral is subject to being used by the trustee in bankruptcy, will immediately seek adequate protection of the collateral.

(4) Where appropriate, the lender should seek involuntary conversion of a pending chapter 11 case to a liquidation proceeding under chapter 7 or under section 1123(b)(4), or seek dismissal of the proceedings.

(5) FmHA or its successor agency under Public Law 103-354 will be kept adequately and regularly informed in writing of all aspects of the proceedings.

(b) In a chapter 9 or chapter 11 reorganization, if an independent appraisal is necessary in FmHA or its successor agency under Public Law 103-354's opinion, FmHA or its successor agency under Public Law 103-354 and the lender will share such appraisal fee equally.

(c) Expenses on chapter 11 reorganizations, chapter 11 or chapter 7 liquidations (unless the lender is directly the liquidator) are not to be deducted from the collateral proceeds.

(d) All bankruptcy cases should be reported immediately to the National Office by utilizing and completing a problem/delinquent status report. The Regional Attorney must be informed promptly of the proceedings.

(e) FmHA or its successor agency under Public Law 103-354 or the lender, with the approval of the State Direc-

tor, may initiate the repurchase of the unpaid guaranteed portion of the loan from the holder(s) to reduce interest accruals during certain bankruptcy proceedings. The State Director may approve the repurchase of the unpaid guaranteed portion of the loan from the holder(s) to reduce interest accrual during chapter 7 proceedings or after a chapter 11 proceeding becomes a liquidation proceeding. If the lender is the holder, an estimated loss payment may be filed at the initiation of a chapter 7 proceeding or after a chapter 11 proceeding becomes a liquidation proceeding. On loans in bankruptcy, any loss payment must be handled in accordance with the lender's agreement (Form FmHA or its successor agency under Public Law 103-354 449-35) and carry the approval of the State Director.

(f) The State Director must approve in advance and in writing the lender's estimated liquidation expenses on loans in liquidation bankruptcy. These expenses must be reasonable and customary and not in-house expenses of the lender.

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§ 1980.877 Transfer and assumptions.

(a) *General.* It is the policy of FmHA or its successor agency under Public Law 103-354 to approve transfers and assumptions of loans to transferees who will continue the original purpose of the guaranteed loan. All transfers and assumptions will be approved in writing by FmHA or its successor agency under Public Law 103-354. Transfers and assumptions may be approved subject to the following:

(1) When the transaction is to a member of the borrower's organization at a price which will not result in a loss to the lender.

(2) Transfers to eligible borrowers will receive preference over transfers to ineligible borrowers, if recovery to the lender from the sale price is not less than it would be if the transfer was to an ineligible borrower.

(3) The present borrower is unable or unwilling to accomplish the objectives of the guaranteed loan and the transfer will be to the lender's advantage.