

not paid until final disposition, the lender should proceed as quickly as possible to develop a plan to see that the collateral is fully protected and a program to dispose of the collateral is commenced.

(b) Any collateral accepted by the lender on a voluntary basis or through foreclosure means *must* be titled in only the lender's name. FmHA or its successor agency under Public Law 103-354 should never be named as owner or co-owner of the collateral. FmHa's position is that of a guarantor.

(c) The first step the lender should take after acquiring the collateral is to see that the collateral is protected from deterioration (weather, vandalism). Hazard insurance in an amount necessary to cover the fair market value of the collateral should be maintained by the lender.

(d) The lender will prepare and submit to the District Director a plan on the best method of sale keeping in mind any prospective purchasers. The District Director will review and recommend action on the plan and forward the plan to the State Director for concurrence. Concurrence or non-concurrence of the plan shall be made in writing to the lender. If an existing liquidation plan addressed the disposition of acquired property, no further review is required unless modification of the plan is needed.

(e) Methods of liquidation.

(1) Direct sale by lender.

(2) Commercial broker.

(i) Broker should be experienced in the type of property involved.

(ii) The written agreement with the broker should include an agreement which allows that if the lender finds a purchaser, no commission would be paid to the broker.

(iii) A maximum of 120 days should be allowed on the contract. The contract should be renewable if all parties agree.

(3) Public auction.

(i) An experienced professional auctioneer should be engaged.

(ii) Adequate advertising should be obtained.

(iii) The lender with FmHA or its successor agency under Public Law 103-354 concurrence shall determine a minimum sale price for the collateral.

(f) Abandonment of the collateral.

(1) The primary purpose of collateral is to afford a net return on the loan balance. However, there will be times when FmHA or its successor agency under Public Law 103-354 will be faced with situations when converting the collateral to cash would result in a loss.

(2) Situations when this type of action could exist are:

(i) Senior lien claims held by other parties against the guaranteed loan collateral and the senior lien claims are more than the collateral value.

(ii) Collateral on the loan has deteriorated to the point where the net sale value (after expenses) of the collateral would not produce any funds that could be applied to the outstanding debt.

(iii) Specialized collateral which has little or no value or demand, taking into consideration the expenses of the sale.

(3) Anytime there is a case when the conversion of collateral to cash can reasonably be expected to result in a negative net recovery amount, abandonment of the collateral should be strongly considered. When a decision to abandon the property is made, the District Director will document the decision in the file and will advise the State Director of the decision.

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

#### **§ 1980.880 State Director's additional authorizations and guidance.**

All proposed servicing actions which the State Director or lender is not authorized by this subpart to approve will be referred to the National Office.

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

#### **§ 1980.881 Appeals.**

Appeals are handled in accordance with § 1980.80 of subpart A of this part and subpart B of part 1900 of this chapter.

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