

Rural Housing Service, USDA

§ 3565.456

(iii) Obtaining an appraisal of the collateral;

(iv) Setting the proposed date of foreclosure; and

(v) Setting the proposed date of liquidation.

(4) Necessary steps for protection of the tenants and preservation of the collateral.

(5) Copies of the borrower's latest available financial statements.

(6) Copies of the guarantor's latest available financial statements.

(7) An itemized list of estimated liquidation expenses expected to be incurred along with justification for each expense.

(8) A schedule to periodically report to the Agency on the progress of liquidation.

(9) Estimated protective advance amounts with justification.

(b) *Filing an estimated loss claim.* Upon Agency concurrence in the liquidation plan and when the lender owns any or all of the guaranteed portion of the loan, the Agency may, in accordance with program guidance, pay an estimated loss payment based on an Agency determined percentage of the approved estimate of the loss. The estimated loss payment will be based in the liquidation value of the collateral. If such payment is made, it will be applied to the outstanding principal balance owed on the guaranteed debt. The lender will discontinue interest accrual on the defaulted loan in accordance with Agency procedures.

(c) *Property disposition.* Once the liquidation plan has Agency approval, the lender must make every effort to liquidate the property in a manner that will yield the highest market value consistent with the protections afforded to tenants contained in 7 CFR part 1944, subpart L or successor regulation. This liquidation process must be completed within 9 months from the lender's decision to liquidate, unless otherwise approved by the Agency.

(d) *Transmitting payments and proceeds to the Agency.* When the Agency is the holder of a portion of the guaranteed loan, the lender will transmit to the Agency its pro rata share of any payments received from the borrower, liquidation, or other proceeds.

§ 3565.454 [Reserved]

§ 3565.455 Alternative disposition methods.

The Agency, in its sole discretion, may choose to obtain an assignment of the loan from the lender or conveyance of title obtained by the lender through foreclosure or a deed-in-lieu of foreclosure.

(a) *Assignment.* In the case of an assignment of the loan, the assignment of the security instruments or the security must be in written and recordable form. Completion of the assignment will occur once the following transactions are completed to the Agency's satisfaction.

(1) Conveyance to the Agency of all the lender's rights and interests arising under the loan.

(2) Assignment to the Agency of all claims against the borrower or others arising out of the loan transactions, including:

(i) All collateral agreements affecting financing, construction, use or operation of the property; and

(ii) All insurance or surety bonds, or other guarantees, and all claims under them.

(3) Certification that the collateral has been evaluated for the presence of contamination from the release of hazardous substances, petroleum products or other environmental hazards which may adversely impact the market value of the property and the results of that evaluation.

(b) *Conveyance of title.* In the case of a conveyance of title to the property, the lender must inform the Agency in advance of how it plans to acquire title and a timetable for doing so. The Agency will accept the conveyance upon receipt of an assignment to the Agency of all claims of the lender against the property and assignment of the lender's rights to any operating funds and any reserves or escrows established for the maintenance of the property or the payment of property taxes and insurance.

§ 3565.456 Filing a claim.

Once the lender has disposed of the property or the Agency has agreed to accept an assignment of the loan or conveyance of title to the property, the