

## § 1965.17

service the loan to protect the Government's security interest.

### § 1965.17 Lease of security.

(a) *General provisions.* When the County Supervisor learns that a borrower is leasing or intends to lease all or a portion of the security, the County Supervisor will ask the borrower for a copy of the lease, if it is written. If the borrower leases or proposes to lease the real estate security for a term of more than 3 years or with an option to purchase, the County Supervisor will normally initiate liquidation action in accordance with §1965.26(b) of this subpart. However, if under unusual circumstances the County Supervisor believes FmHA or its successor agency under Public Law 103-354 should consent to such a lease arrangement, prior approval of the Assistant Administrator, Farmer Programs, or the Administrator, if a SFH loan is secured by the same security, is required. The State Director should forward such a request, along with a justification to the National Office. No action will be taken to disapprove or to approve a lease if the lease is for less than three years and contains no option to purchase; however, if under the lease of security, the borrower ceases to operate the farm, action will be taken in accordance with §1965.26(d) of this subpart.

(b) *Liquidation.* No action to initiate liquidation based on the lease will be taken unless the borrower:

(1) Enters into a lease for a term of more than 3 years; or

(2) Enters into a lease for any term containing an option to purchase.

(c) *Mineral leases.* When a borrower requests consent to lease the mineral rights to security, the County Supervisor may consent provided the proposed use of the leased rights will not result in the Government's security interest being adversely affected. If applicable, the requirements of Subpart G of Part 1940 of this chapter must be met. A borrower does not need FmHA or its successor agency under Public Law 103-354's consent to lease the mineral rights securing a Farmer Program loan approved after December 23, 1985, unless the oil, gas or other minerals were included on FmHA or its suc-

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cessor agency under Public Law 103-354's real estate appraisal. If FmHA or its successor agency under Public Law 103-354 consent is needed and consent is given, lease payments can be used for prospective payments on FmHA or its successor agency under Public Law 103-354 loans. Any payment or other compensation the borrower may receive for damages to the surface of the collateral real estate resulting from exploration for or recovery of minerals will be assigned to FmHA or its successor agency under Public Law 103-354 and will be used to repair the damage or used as authorized in §1965.13(f) of this Subpart. Form FmHA or its successor agency under Public Law 103-354 465-1 will be used to process requests under this section. The County Supervisor should carefully document the facts to support the determinations reached concerning the effects of a mineral lease on the Government security. Assignment of income will be taken by use of Form FmHA or its successor agency under Public Law 103-354 443-16, "Assignment of Income from Real Estate Security," or other form approved by OGC which is necessary to comply with State law.

[51 FR 4140, Feb. 3, 1986, as amended at 53 FR 35795, Sept. 14, 1988; 58 FR 52654, Oct. 12, 1993]

### § 1965.18 Transfer of upland cotton, peanut, or tobacco allotments.

(a) *General.* Agriculture Stabilization and Conservation Service (ASCS) regulations, pursuant to approved legislation, permit the transfer of upland cotton, peanut, or tobacco allotments by one or more of the following transactions: (1) Sale, (2) lease, or (3) transfer by the owner to another farm owned or controlled by the owner. These regulations require, among other things, that no allotment be transferred from a farm which is subject to a mortgage or other lien, unless the transfer is agreed to by the lienholders. It is FmHA or its successor agency under Public Law 103-354's policy to approve the transfer of any crop allotments permitted by the ASCS regulations if the conditions and requirements of this subpart can be met. FmHA or its successor agency under Public Law 103-354 personnel should familiarize themselves with the States