

careful analysis, and borrower in default who does not evidence prospects of attaining successful operations within a reasonable time will have its loan(s) liquidated according to authorizations contained in this subpart and Subpart A of Part 1955 of this chapter.

§ 1965.52 Definitions.

(a) *Borrowers*. “Borrowers” means all individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations, and other organizations which have received a loan or grant from FmHA or its successor agency under Public Law 103-354 for LH, RRH, RCH, or RHS purposes.

(b) *Case file*. “Case file” includes the total cumulative records concerning a borrower.

(c) *District Director*. For the purpose of this subpart, the term also includes the Assistant District Director, and other qualified District Office staff who may be delegated responsibilities under this subpart according to the provisions of Subpart F or Part 2006 (available in an FmHA or its successor agency under Public Law 103-354 office). Area Loan Specialists and Island Directors, and other qualified members of their staff in Alaska and Hawaii, respectively, are included in this definition. In the case of LH loans still being serviced in the County Office, this definition also includes qualified County Office staff.

(d) *FmHA or its successor agency under Public Law 103-354*. “FmHA or its successor agency under Public Law 103-354” means the United States of America acting through the Farmers Home Administration or its successor agency under Public Law 103-354 of the United States Department of Agriculture; it also includes FmHA or its successor agency under Public Law 103-354’s predecessor agencies.

(e) *Governing body*. “Governing body” means those elected or appointed officials of an organization or public agency type borrower responsible for compliance with the security instruments and the operations of the project.

(f) *Mortgage*. “Mortgage” also includes deeds of trust and similar real estate security instruments and, where appropriate, chattel security instruments.

(g) *Note*. “Note” includes any note, bond, assumption agreement, or other evidence of indebtedness, including the obligations of LH grant only recipients operating under a grant agreement. All LH grant only recipients will be serviced in strict accordance with their grant agreement, appropriate program regulations, and this subpart.

(h) *OGC*. “OGC” means the Regional Attorney or the Attorney in charge in the field office of the Office of General Counsel of the United States Department of Agriculture.

(i) *Servicing*. “Servicing” includes the broad scope of activities undertaken by FmHA or its successor agency under Public Law 103-354 to see that the objectives of the loan are carried out; to assure compliance with the respective policies, procedures and authorizations set forth for each respective loan program; or to bring to a successful conclusion each loan or grant made by FmHA or its successor agency under Public Law 103-354 through transfer, sale, reamortization, payment or liquidation.

§§ 1965.53–1965.54 [Reserved]

§ 1965.55 Authority of State Director.

(a) Each State Director is authorized to perform the following functions upon determining that the action will not be to the financial detriment of FmHA or its successor agency under Public Law 103-354:

(1) Require additional security in accordance with § 1965.88 of this subpart.

(2) Require borrowers to carry insurance of the types and amounts determined necessary on the real estate and chattel property mortgaged to the FmHA or its successor agency under Public Law 103-354. The borrower must carry adequate liability insurance as required by exhibit B, paragraph XV B 3 of subpart C of part 1930 of this chapter. Evidence of insurance is required for Multiple Housing loans according to the provisions of subpart A of part 1806 of this chapter (FmHA or its successor agency under Public Law 103-354 Instructions 426.1).

(3) Approve the issuance of transfer of stock, change of beneficial interest, change of membership, admittance of

new or substitute partners, or withdrawal of partners from a partnership; provided, the State Director determines that the requirements of §1965.63 of this subpart have been met, and that the change will not jeopardize the successful operation of the project, the soundness of the loan, or the eligibility of the borrower.

(4) Approve transfers with assumption of FmHA or its successor agency under Public Law 103-354 loan accounts when all development has been completed and the unpaid principal balance and accrued interest does not exceed the State Director's loan approval authority as set forth in subpart A of part 1901 of this chapter for the type of loan(s) involved. Transfers will be processed according to §1965.65 of this subpart.

(5) Approve the reamortization of FmHA or its successor agency under Public Law 103-354 indebtedness that is within the State Director's loan approval authority as set forth in subpart A of part 1901 of this chapter for the type of loan(s) involved according to the provisions of §1965.70 of this subpart.

(6) Consent to the sale, exchange, or release of security property according to the applicable provisions of §1965.77 of this subpart.

(7) Accept payment of RRH, RCH and LH loans subject to the provisions of subpart E of this part.

(8) Approve subordination of FmHA or its successor agency under Public Law 103-354 lien position if the total debt against the security after the transaction is within the State Director's approval authority as set forth in subpart A of part 1901 of this chapter for the type of loan(s) involved according to the provisions of §1965.79 of this subpart.

(9) Approve requests from borrowers for the creation of additional indebtedness on the security property. Such approvals must take into account the provisions of loan resolutions or other agreements with FmHA or its successor agency under Public Law 103-354 and other existing creditors. If the proposed additional debt would make the total outstanding obligations of the borrower exceed the FmHA or its successor agency under Public Law 103-354

loan approval limit of the State Director as set forth in subpart A of part 1901 of this chapter, complete documentation and the State Director's recommendations must be sent to the National Office for prior review and authorization to approve.

(10) Renew existing security instruments in accordance with FmHA or its successor agency under Public Law 103-354 State Supplements after consulting with OGC.

(11) Approve, with the concurrence of OGC, changes in a borrower's legal organization such as revisions to certificates of limited partnership, partnership agreements, articles of incorporation or charter, bylaws, or trust agreements when the changes proposed will promote better borrower organization and business operation, and will not adversely affect the repayment of the loan, impair the security rights of the FmHA or its successor agency under Public Law 103-354, or make the borrower ineligible for the existing FmHA or its successor agency under Public Law 103-354 loan or grant assistance.

(12) Approve the borrower's execution, extension, renewal, modification, or cancellation of contracts of types not covered elsewhere in this section when the State Director, with the advice of OGC, determines that the action is in the best interests of both the borrower and the FmHA or its successor agency under Public Law 103-354; and in the case of RRH, RCH, and LH projects, will not be detrimental to the tenants or members.

(13) Approve the extension or expansion of facilities and services in accordance with the respective loan program regulations when the action will best serve the interest of both the borrower and the FmHA or its successor agency under Public Law 103-354.

(14) Approve the lease of security property according to §1965.61(e) of this subpart.

(b) The State Director may reject any servicing request not in accordance with the guidelines of this subpart.

(c) Any borrower directly and adversely affected by action under this subpart will be granted the appropriate appeal rights according to subpart B of part 1900 of this chapter.

(d) The State Director may request from the National Office any authority not specifically delegated to the State Director. Written requests consistent with the intent and requirements of each respective loan program must be submitted to the National Office for prior authorization and must include the complete docket and the State Director's specific recommendations.

[49 FR 49590, Dec. 21, 1984, as amended at 55 FR 29564, July 20, 1990; 56 FR 2257, Jan. 22, 1991; 58 FR 38928, July 21, 1993]

§§ 1965.56–1965.57 [Reserved]

§ 1965.58 Responsibilities.

(a) District Directors will: (1) Keep sufficiently informed of borrower operations to know whether they are operating successfully and complying with their obligations to the FmHA or its successor agency under Public Law 103–354.

(2) Furnish borrowers with information, notices, reminders, fair housing posters, advice and assistance, and take other actions regarding the loan obligations and compliance therewith as considered necessary to determine whether borrowers are operating successfully, are complying with their loan obligations, and are likely to continue with compliance. This includes conducting all civil rights compliance reviews to determine compliance with all appropriate legislation regarding nondiscrimination in federally financed programs, in accordance with Subpart E of Part 1901 of this chapter.

(3) Promptly report to the State Director the failure of any borrower to comply with the terms and conditions of its agreements with FmHA or its successor agency under Public Law 103–354 after noncompliance has been brought to the attention of the borrower and recommended corrective action has not been taken.

(4) Furnish training and technical guidance not readily available through other sources to borrowers to protect the FmHA or its successor agency under Public Law 103–354's interests. This training and guidance may relate to business operations, project management, personnel training, membership activities, fair housing requirements and policy, or any other phase which

vitality affects the borrower's operations,

(5) Maintain the Management Card System according to FmHA or its successor agency under Public Law 103–354 Instruction 1905–A (available in any FmHA or its successor agency under Public Law 103–354 office) to assure prompt compliance by borrowers with FmHA or its successor agency under Public Law 103–354 requirements relating to repayments, budgets and reports, taxes, insurance and bond renewals, reports required by State law or regulations as indicated in State Supplements, security instrument expirations, and other items of loan and security servicing,

(6) Maintain the official borrower case files according to the requirements of FmHA or its successor agency under Public Law 103–354 Instruction 2033–A (available in FmHA or its successor agency under Public Law 103–354 State and District offices), and MISTR according to FmHA or its successor agency under Public Law 103–354 Instruction 2033, and

(7) Promptly collect FmHA or its successor agency under Public Law 103–354 loan payments and service security for the FmHA or its successor agency under Public Law 103–354 loans.

(b) State Director will:

(1) Coordinate and direct loan servicing activities relating to borrowers and perform other functions as prescribed by this subpart.

(2) Delegate in writing any authority delegated to the State Director in this subpart unless otherwise restricted, to only those State Office staff members who, in the opinion of the State Director, have been adequately trained and who demonstrate their knowledge in understanding and administering the MFH policies and procedures of FmHA or its successor agency under Public Law 103–354. The individual delegation of responsibility and authority may be limited or expanded in scope, or revoked, as deemed appropriate by the State Director and will be prepared according to FmHA or its successor agency under Public Law 103–354 Instruction 2006–F (available in any FmHA or its successor agency under Public Law 103–354 office). Unless specifically authorized elsewhere in this subpart, the