

authorities of the State Director may not be delegated below the State Office staff level. (The State Office staff does not include District Office staff for the purposes of this subpart.)

(3) Ensure that District Directors carry out their responsibilities for loan servicing and provide the District Office with appropriate technical guidance, training and follow-up supervision to service loans.

(4) Coordinate as appropriate with OGC.

(5) Maintain necessary liaison with State and local officials.

§§ 1965.59–1965.60 [Reserved]

§ 1965.61 General loan servicing requirements.

(a) *Payments.* Payments will be handled according to the applicable provisions of subparts A and B of part 1951 of this chapter, and subparts D and E of part 1944 of this chapter.

(b) *Borrower reports, audits, and analyses.* Borrower reports, audits, and analyses, including the approval or disapproval of annual operating budgets, requests for rent and occupancy charge changes, and occupancy problems will be processed and handled according to subpart C of part 1930 of this chapter.

(c) *Maintenance.* Project maintenance is of utmost importance. All projects must be adequately maintained by the borrower not only to protect the FmHA or its successor agency under Public Law 103-354's interest, but also to attract potential clients (tenants for rental projects, members for cooperative projects, purchasers for RHS). Maintenance should be reviewed during each supervisory visit and appropriate recommendations made to the borrower. The District Director will inspect the real estate security as required by subpart C of part 1930 of this chapter.

(d) *Actions by third parties affecting FmHA or its successor agency under Public Law 103-354 security.* Cases including third party action will be handled according to the provisions of §1965.104(c) of subpart C of part 1965 of this chapter, except that references to the County Supervisor shall be construed to mean District Director when applied to multiple housing type programs.

(e) *Lease of security property.* The leasing of property (except to tenants for specific program purposes) serving as security for multiple housing loans and grants other than as indicated in this section is not authorized. Approval of leases by the State District is authorized in the following cases:

(1) *Leases to public housing authorities.* RRH and RCH borrowers may be permitted to renew and continue leasing all or part of the housing facilities to a housing authority with the benefits of the HUD Section 23 leasing program. No new leases will be entered into. The lease will be on a form provided by the housing authority and must be on terms that will enable the borrower to continue the objectives of the loan and make payments on schedule.

(2) *Lease of a portion of the security property.* When the RRH or RCH or LH borrower will continue to operate the facilities for the purpose for which the loan or grant was made, the State Director or his/her designee may approve the leasing of related facilities such as kitchens, recreation facilities and community buildings, subject to the applicable provisions of §1944.212 of subpart E of part 1944 of this chapter for RRH and RCH and §1944.158 of subpart D of part 1944 of this chapter for LH and under the following conditions:

(i) The lease is advantageous to the borrower and the tenants, and will not impair the FmHA or its successor agency under Public Law 103-354's interest.

(ii) The amount of the consideration is adequate. The consideration must be sufficient to pay all prorated operating and maintenance expenses, a prorated share of the annual reserve deposit, and the prorated part of the loan amortization at the note rate of interest.

(iii) The lease should provide at its termination for the restoration of the leased space to its original condition or a condition acceptable to the owner and FmHA or its successor agency under Public Law 103-354.

(iv) Consent to the lease shall not exceed 3 years at a time unless the State Director determines with the prior written concurrence of the National Office that a longer lease is clearly more

advantageous to the borrower, the tenants, and the FmHA or its successor agency under Public Law 103-354.

(v) If foreclosure action has been approved, consent to lease and use of proceeds will be granted only under directions from OGC or the U.S. Attorney, as appropriate.

(vi) When another lienholder's mortgage requires consent of that lienholder to a lease, written consent will be obtained prior to FmHA or its successor agency under Public Law 103-354 approval of the lease.

(vii) The authority to approve the lease of laundry facilities or commissary stores may be redelegated in writing to the District Director by the State Director.

(3) *Mineral leases.* Mineral leases will be handled according to §1965.113 of subpart C of part 1965 of this chapter except that all references to County Supervisor will be construed to mean District Director when applied to the Multiple Housing Programs.

(4) *Processing.* When a borrower requests consent to lease a portion of the security property or the District Director discovers that the borrower is leasing the security without consent, Form FmHA or its successor agency under Public Law 103-354 465-1, "Application for Partial Release, Subordination or Consent," will be prepared.

(i) The form will show the terms of the proposed lease and will specify the use of proceeds, including any proceeds to be released to the borrower.

(ii) The form will be submitted through the District Director to the State Director, along with a copy of the lease, official borrower case files, the District Director's comments and recommendations, and any other information pertinent to the transaction.

(iii) The State Director will review the material, obtain the guidance of OGC prior to indicating approval or disapproval on Form FmHA or its successor agency under Public Law 103-354 465-1, and provide additional servicing instructions to the District Director.

(f) *Consent of lienholders.* Before FmHA or its successor agency under Public Law 103-354 consents to any transaction which affects its security or lien position, the written consent of any other lienholders must be ob-

tained. The consent will include an agreement on the disposition of any funds resulting from the transaction and will be consistent with the respective loan program requirements.

[49 FR 49587, Dec. 21, 1984, as amended at 50 FR 39640, Sept. 30, 1985; 56 FR 2257, Jan. 22, 1991; 58 FR 40956, July 30, 1993]

EFFECTIVE DATE NOTE: At 67 FR 78329, Dec. 24, 2002, §1965.61 was amended in paragraph (d) by revising the words "§1965.104(c) of subpart C of part 1965 of this chapter" to read "7 CFR part 3550" and in paragraph (e)(3) by revising the words "§1965.113 of subpart C of part 1965 of this chapter" to read "7 CFR part 3550", effective Jan. 23, 2003.

§ 1965.62 [Reserved]

§ 1965.63 **Issuance or transfer of stock, or change in membership, or membership interests in organizations indebted to FmHA or its successor agency under Public Law 103-354.**

Organizations which may be indebted to FmHA or its successor agency under Public Law 103-354 include, but are not limited to: public bodies, broadly-based nonprofit corporations, nonprofit organizations of farmworkers, associations of farmers, RCH consumer cooperatives, profit and limited profit corporations, trusts, profit and limited profit general partnerships, and limited partnerships. This section describes the policy of FmHA or its successor agency under Public Law 103-354 in approving changes of members, ownership interest, and transfer or issuance of stock in these organizations, to determine the continued eligibility of the borrower entity. It *does not* apply to the sale or exchange of title to the security property, or the conversion from one form of ownership to another such as changing a general partnership to a limited partnership. Stock, partnership, or membership changes which the State Director is not authorized to approve under the conditions of this section will be submitted to the National Office for handling.

(a) *Profit and limited profit corporations, general partnerships, limited partnerships, and trusts.* Ownership changes within the existing borrower entity will be processed as follows:

(1) Ownership changes totalling 100 percent of the ownership interests in a project within any consecutive 12-