

## § 1902.5

FmHA or its successor agency under Public Law 103-354 will not require the review or approval of deposits or the use of Forms FmHA or its successor agency under Public Law 103-354 402-1 or FmHA or its successor agency under Public Law 103-354 402-2.

(2) *Account activity statements.* Generally, the FmHA or its successor agency under Public Law 103-354 will not monitor or reconcile the reserve account activity statements issued periodically by the financial institutions holding the funds. FmHA or its successor agency under Public Law 103-354 will monitor reserve account levels through budget reports, audits, and Agency reserve tracking systems. If disputes arise or the borrower is in violation of Agency regulations, the Agency may require account activity statements. When account activity statements are sought, it will normally be sufficient to obtain the statement which reflects balances as of the last activity statement ending period. Form FmHA or its successor agency under Public Law 103-354 402-2 is not required to be used.

[59 FR 3778, Jan. 27, 1994]

EFFECTIVE DATE NOTE: At 69 FR 69104, Nov. 26, 2004, §1902.4 was amended in paragraph (a)(4) by revising the words "subpart C of part 1930 of this chapter" to read "7 CFR part 3560, subpart G," in paragraph (a)(5) by revising the words "subpart C of part 1930 of this chapter" to read "7 CFR part 3560, subpart G," and in paragraph (a)(6) by revising the words "subpart C of part 1930 of this chapter" to read "7 CFR part 3560, subpart G," effective February 24, 2005.

## § 1902.5 [Reserved]

### § 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the bank is a member of the FDIC, the savings and loan is a member of the FSLIC, and the credit union is a member of the NCUA.

(b) When accounts are established, it should be determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

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(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) Agreement is reached with the financial institution regarding the place where the counter-signature will be on checks.

(c) When possible, District Directors or County Supervisors will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) For each borrower, if the amounts of any loan and grant funds, plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000, the financial institution will be required to pledge collateral for the excess over \$100,000, before the deposit is made (see § 1902.7).

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the financial institution, and a District or County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable, will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on the applicable Deposit Agreement has previously been executed and Form FmHA or its successor agency under Public Law 103-354 402-6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new

agreement is not required when additional funds are to be deposited unless requested by the financial institution.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988]

**§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.**

(a) Funds in excess of \$100,000, per financial institution, deposited for borrowers in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank (FRB) in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the District Director or County Supervisor will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC (banks), FSLIC (savings and loans), or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the FRB under 31 CFR part 202 (Treasury Circular 176) to the extent necessary to secure the amount of funds being deposited in excess of \$100,000.

(3) If the financial institution is not a member of the Federal Reserve System, it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the FRB informing them they are holding securities pledged for the supervised bank account under 31 CFR part 202 (Treasury Circular 176).

(c) If the financial institution is agreeable to pledging collateral, the District Director or County Supervisor should complete FmHA or its successor agency under Public Law 103-354 Form

Letter 1901-A-2 "Designated Financial Institution—Collateral Pledge" in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The FmHA or its successor agency under Public Law 103-354 Form Letter 1902-A-2 should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the financial institution under its designation as a depository and financial agent of the U.S. Government to pledge the requested collateral.

(e) If, two days before loan closing, the local FmHA or its successor agency under Public Law 103-354 office which requested the collateral has not received notification from National Office that collateral has been pledged, contact should be made with the financial institution to ascertain whether they have pledged collateral with their local FRB under 31 CFR part 202 (Treasury Circular 176). If the financial institution has pledged collateral, the local FmHA or its successor agency under Public Law 103-354 office should contact the National Office, Budget Division, Revolving Fund Analysis Branch who will follow-up with the local FRB concerning the collateral.

(f) When the amount of deposit in the supervised bank account has been reduced to a point where the financial institution desires part or all of the collateral released, it should contact the National Office at the address noted above. The local FmHA or its successor agency under Public Law 103-354 office will be contacted for release authorization. The authorization release will be made through the local FRB, with notification to the financial institution. The local FmHA or its successor agency under Public Law 103-354 office may also request release through the National Office.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 53 FR 24437, June 29, 1988; 56 FR 50648, Oct. 8, 1991]