

**§§ 1941.68–1941.70**

agency under Public Law 103-354 441-17 in such cases has been issued.

(c) *Form FmHA or its successor agency under Public Law 103-354 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by a State supplement, this form rather than a severance agreement will be used in UCC States when a security interest is taken in property after it has become a fixture.

(1) If a debt on an item which has already become a fixture is being refinanced, consent and subordination agreements will be signed before releasing loan funds to the creditor. In all other cases in which a security interest is being taken on an item that already has become a fixture, consent and subordination agreements will be signed no later than the time of loan closing.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before the financing statement and security agreement covering the fixture have been executed, or before the financing statement is filed, or before the request for obligation of funds is signed by the loan approving official.

[43 FR 55883, Nov. 29, 1978, as amended at 54 FR 47959, Nov. 20, 1989]

**§§ 1941.68–1941.70 [Reserved]**

**§ 1941.71 Fees.**

The borrower will pay all fees for filing or recording financing statements, mortgages, or other legal instruments and will pay all notary and lien search fees incident to loan transactions. Payment will be made from personal funds or from the proceeds of the loan. Whenever FmHA or its successor agency under Public Law 103-354 employees accept cash to pay for filing or recording fees or for the cost of making a lien search, Form FmHA or its successor agency under Public Law 103-354 440-12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA or its successor agency under Public Law 103-354 employees will make it clear to the borrower that any fee so accepted is not received by the Government as a payment on the borrower's debt, but is

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accepted only for paying the recording, filing, or lien search fees on behalf of the borrower.

**§§ 1941.72–1941.74 [Reserved]**

**§ 1941.75 Retention and use of security agreements.**

Original executed security agreements will not be altered or destroyed, and will remain in the case file when new security agreements are taken. Changes in security property will be noted *only* on the work copy. When an additional security agreement covering all collateral for the debt is taken, the work copy of the previous security agreement may be destroyed.

**§§ 1941.76–1941.78 [Reserved]**

**§ 1941.79 Future advance and after-acquired property clauses.**

The future advance and after-acquired property clauses of security agreements will be considered valid in all respects in UCC States unless otherwise provided in a State supplement.

(a) *Future advance clause.* A properly prepared, executed, and filed or recorded FmHA or its successor agency under Public Law 103-354 financing statement and a properly prepared and executed FmHA or its successor agency under Public Law 103-354 security agreement give FmHA or its successor agency under Public Law 103-354 a security interest in the property described. This security interest covers future loans, advances, and expenditures, as well as any other FmHA or its successor agency under Public Law 103-354 debts evidenced by notes and any advances or expenditures for debts evidenced by such notes. However, when a borrower's indebtedness is paid in full, a new security agreement must be taken in all cases to secure an initial loan made following the payment in full.

(b) *After-acquired property clause.* After a security interest is acquired in certain property, any property (except fixtures) acquired which is of the same type as that described in the financing statement and security agreement will also serve as security for the debt. The after-acquired property clause in the security agreement will encumber crops grown on the land described in