

prior to loan approval with all necessary information for review and further instructions.

(d) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the servicing official will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy, including the recording data showing the date and place of recordation and book and page number, will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower.

(e) *Date of closing—establishment of account.* (1) A loan is considered closed when the security instrument is filed of record or, if no security instrument is record, when the loan funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note any and other required instruments.

(2) After the loan is closed, the account and case folder will be established at the servicing office following the requirements of FmHA Instructions 1905-A and 2033-A (available in any FmHA or its successor agency under Public Law 103-354 office).

[53 FR 2159, Jan. 26, 1988, as amended at 56 FR 2240, Jan. 22, 1991; 56 FR 67483, Dec. 31, 1991; 58 FR 38925, July 21, 1993; 59 FR 6890, 6896-6897, Feb. 14, 1994]

#### § 1944.237 Subsequent loans.

(a) A subsequent loan is made to an applicant/borrower to complete, improve, repair, and/or make modifications to the project initially financed by FmHA or its successor agency under Public Law 103-354, or for equity and/or other purposes when authorized by the provisions of subpart E of part 1965 of this chapter to avert prepayment. A subsequent loan to develop additional units must compete for funding in accordance with § 1944.231 of this subpart. Other subsequent loan requests do not have to compete for funding.

(b) If the designation of an area changed from rural to nonrural after the initial FmHA or its successor agency under Public Law 103-354 loan was made, a subsequent loan can be made,

only to make necessary improvements and repairs to the property or for equity and other purposes when necessary to avert prepayment.

(c) In case where the loan is to complete the original housing under the initial FmHA or its successor agency under Public Law 103-354 loan:

(1) If the applicant/borrower provided an initial investment greater than required under the initial FmHA or its successor agency under Public Law 103-354 loan, the excess may be credited toward the required amount of the initial investment of the subsequent loan per § 1944.213 (b) of this subpart; the applicant/borrower should only be required to put up additional funds for this purpose if needed. The same applies to initial Operating and Maintenance (O and M) requirements.

(2) If the initial investment and 2 percent O and M amounts are sufficient to cover only the initial FmHA or its successor agency under Public Law 103-354 loan, the applicant/borrower must provide the additional respective amounts to cover the subsequent loan. The 2 percent O and M amounts must be in the form of cash as described in § 1944.211 (a)(6) of this subpart. The required amount of the initial investment is described in § 1944.213 (b) of this subpart.

(d) If the loan is to repair and/or improve an existing project which has been in operation for some time, then:

(1) The applicant/borrower should not be required to provide the initial 2 percent O and M amount since its purpose is to cover project start-up costs.

(2) The applicant/borrower must provide the initial investment per § 1944.213(b) of this subpart unless it provided more than the required initial investment when the loan was made. When the applicant/borrower has more than the required amount invested in the initial loan, the excess may be credited toward the required investment for the subsequent loan. The applicant/borrower should be required to contribute additional funds only if needed. The applicant/borrower will not be given consideration for any increased equity or value that the property may have since the date of the initial FmHA or its successor agency under Public Law 103-354 loan.

(e) Subsequent loans, other than those made to a nonprofit corporation or public agency to avert prepayment, will be subject to the restrictive-use provisions contained in exhibit A-1 of subpart E of part 1965 of this chapter. Subsequent loans made to nonprofit organizations or public agencies to avert prepayment will be subject to the restrictive-use provisions contained in exhibit A-2 of subpart E of part 1965 of this chapter. The required restrictive-use language for subsequent loans shall be appended to the mortgage referencing all notes for the applicable term, beginning on loan closing. The advice of OGC shall be obtained to carry out the requirements of this paragraph.

(f) For additional requirements in closing quality loans to avert prepayment, see exhibit A-11 of this subpart.

(g) For additional requirements in closing subsequent loans to nonprofit corporations and public agencies made in conjunction with transfers to avert prepayment, see § 1965.65(f) of subpart B of part 1965 of this chapter.

[53 FR 2159, Jan. 26, 1988, as amended at 53 FR 7492, Mar. 9, 1988; 53 FR 13245, April 22, 1988; 56 FR 2241, Jan. 22, 1991; 58 FR 38925, July 21, 1993; 58 FR 44273, Aug. 20, 1993; 59 FR 6890, Feb. 14, 1994; 62 FR 25069, May 7, 1997]

**§ 1944.238 Prohibition against prepayment.**

The Agency shall not accept an offer to prepay, or request refinancing of any loan made to build or acquire new units made or insured under section 515 pursuant to a contract entered into on or after December 15, 1989 regardless of the fact the borrower has received previous RRH loans on the project. For purposes of this requirement, the date a "contract is entered into" is the date on which the Form FmHA or its successor agency under Public Law 103-354 1944-51 is mailed or delivered to the applicant/borrower.

[55 FR 29562, July 20, 1990, as amended at 58 FR 38925, July 21, 1993]

**§ 1944.239 Complaints regarding discrimination in use and occupancy of RRH and RCH.**

Any tenant/member or prospective tenant/member seeking occupancy or use of RRH, RCH or related facilities

who believes he/she has been discriminated against because of age, race, color, religion, sex, familial status, handicap or national origin may file a complaint in person with, or by mail to the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD), Washington, DC, 20410, or any HUD office, or to the Administrator, FmHA or its successor agency under Public Law 103-354, USDA, Washington, DC 20250. If a complaint is made to an FmHA or its successor agency under Public Law 103-354 County, District or State Office, it must be directed to the Director of Equal Opportunity Staff (EOS), National Office, by the FmHA or its successor agency under Public Law 103-354 employee in charge of that office. When a complaint is sent to FmHA or its successor agency under Public Law 103-354-EOS by a county or servicing office, the State Director will be made aware of the complaint.

(a) Personnel in FmHA or its successor agency under Public Law 103-354 field offices will provide assistance to the aggrieved party when filling out required forms and filing a complaint.

(b) Each complaint must contain the following information:

(1) The name and address of the respondent.

(2) The name and address of the aggrieved person.

(3) A description and the address of the dwelling which is involved, if appropriate.

(4) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

(c) Participants in FmHA or its successor agency under Public Law 103-354's housing program failing to comply with the requirements of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the respective Affirmative Fair Housing Marketing Plan will make themselves liable to sanction authorized by law, regulations, agreements, rules and/or policies governing the program pursuant to which the application was made. Victims of discriminatory housing practices may seek reparations from HUD or by private lawsuit.