

(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.

(d) All complaints will be handled in accordance with prescribed procedure.

[56 FR 2241, Jan. 22, 1991, as amended at 58 FR 40954, July 30, 1993; 59 FR 6896, Feb. 14, 1994]

§ 1944.240 Exception authority.

The Administrator may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if he/she finds that application of such requirement would adversely affect the interest of the Government or adversely affect the accomplishment of the purposes of the program or result in undue hardship by applying the requirement. The Administrator may exercise the authority at the request of the State Director. The State Director will submit the request supported by data that demonstrates the adverse impact, citing the particular requirement involved and recommending proper alternative course(s) of action, and outlining how the adverse impact could be mitigated. Exception to any requirement may also be initiated by the Assistant Administrator for Housing.

[56 FR 2241, Jan. 22, 1991]

§§ 1944.241–1944.245 [Reserved]

§ 1944.246 Loan approval.

(a) *Authority.* Loans will be approved in accordance with this subpart and subpart A of part 1901. The State Director may redelegate loan approving authority in writing to State Office employees.

(b) *Loan approval action—(1) Responsibilities of loan approving official.* The loan approving official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations. In making this review, the loan approving official will determine that:

- (i) The applicant is eligible and has legal authority to contract for a loan and enter into the required statements.
- (ii) The location of the housing meets the requirements outlined in § 1944.215(p) of this subpart.
- (iii) The funds are requested for authorized purposes.
- (iv) The proposed loan is sound.
- (v) The security is adequate.

(vi) All preapproval requirements have been met, including the applicant's execution of Form FmHA or its successor agency under Public Law 103-354 400-4.

(vii) For projects with four or less units, the State Director has taken the necessary action to comply with § 1944.406 of subpart I of part 1940 of this chapter.

(viii) All other requirements will be met.

(2) *Approval or disapproval of a loan—*

(i) *Approval.* Before the loan approving official executes documents evidencing loan approval, a complete review of the proposed management and rental procedures must be made to assure compliance with title VI of the civil Rights Act of 1964 and the Rehabilitation Act of 1973. If the loan approving official is assured of compliance, he/she may execute the loan approval documents. When a loan is approved, Form FmHA or its successor agency under Public Law 103-354 1944-51 will be completed according to the instructions on the Forms Manual Insert. The approving official will insert a statement in block 48 of Form FmHA or its successor agency under Public Law 103-354 1944-51 advising the applicant that the amount of the loan may decrease if other government assistance as defined in § 1944.205 of this subpart becomes available to the applicant before loan closing.

(ii) *Disapproval.* If a loan is disapproved after the docket has been developed, the reason for the action will be shown on the original Form FmHA or its successor agency under Public Law 103-354 1944-51 and the form will be initialed and dated. The servicing official will notify the applicant of the reasons for disapproval. The disapproved docket will then be handled in accordance with subpart A of part 2033 of this chapter. If disapproval is not at the applicant's request or by mutual agreement, the applicant will be notified that it may request a further review of the decision in accordance with subpart B of part 1900 of this chapter.

(3) *OGC closing instructions.* For a loan to an organization, or an individual in special cases, the approved docket, including any title evidence,