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[51 FR 42821, Nov. 26, 1986]

Subpart D—Final Payment on Loans

SOURCE: 57 FR 774, Jan. 9, 1992, unless otherwise noted.

§ 1951.151 Purpose.

This subpart prescribes authorizations, policies, and procedures of the Farm Service Agency (FSA), Rural Housing Service (RHS), Rural Utility Service (RUS) for its water and waste programs, and Rural Business-Cooperative Service (RBS), herein referred to as "Agency," for processing final payment on all loans. This subpart does not apply to direct single family housing customers of the RHS.

[61 FR 59778, Nov. 22, 1996]

EFFECTIVE DATE NOTE: At 69 FR 69105, Nov. 26, 2004, §1951.151 was amended by revising the last sentence, effective Feb. 24, 2005. For the convenience of the user, the revised text is set forth as follows:

§ 1951.151 Purpose.

* * * This subpart does not apply to direct single family housing customers or to the Rural Rental Housing, Rural Cooperative Housing, or Farm Labor Housing programs of the RHS.

§ 1951.152 Definition.

As used in this subpart:

Mortgage. Includes real estate mortgage, deed of trust or any other form of security instrument or lien on real property.

§ 1951.153 Chattel security or note-only cases.

(a) If a loan secured by both real estate and chattels is paid in full, the chattel security instrument will be satisfied or released in accordance with subpart A of part 1962 of this chapter.

(b) When a loan is evidenced by only a note and the note is paid in full, FmHA or its successor agency under Public Law 103-354 will deliver the note to the borrower in the manner prescribed in §1951.155(c) of this subpart.

§ 1951.154 Satisfaction and release of documents.

(a) *Authorization.* FmHA or its successor agency under Public Law 103-354 is authorized to execute the necessary releases and satisfactions and return security instruments and related documents to borrowers. Satisfaction and release of security documents takes place:

(1) Upon receipt of payment in full of all amounts owed to the Government including any amounts owed to the loan insurance account, subsidy recapture amounts, all loan advances and/or other charges to the borrower's account;

(2) Upon verification that the amount of payment received is sufficient to pay the full amount owed by the borrower; or

(3) When a compromise or adjustment offer has been accepted and approved by the appropriate Government official in full settlement of the account and all required funds have been paid.

(b) [Reserved]

(c) *Lost note.* If the original note is lost FmHA or its successor agency under Public Law 103-354 will give the borrower an affidavit of lost note so that the release or satisfaction may be processed.

§ 1951.155 County and/or District Office actions.

(a) *Funds remaining in supervised bank accounts.* When a borrower is ready to pay an insured or direct loan in full, any funds remaining in a supervised bank account will be withdrawn and remitted for application to the borrower's account. If the entire principal of the loan is refunded after the loan is closed, the borrower will be required to pay interest from the date of the note to the date of receipt of the refund.

(b) *Determining amount to be collected.* FmHA or its successor agency under Public Law 103-354 will compute and verify the amount to be collected for payment of an account in full. Requests for payoff balances on all accounts will be furnished in writing in a format specified by FmHA or its successor agency under Public Law 103-354 (available in any FmHA or its successor agency under Public Law 103-354 office).

(c) *Delivery of satisfaction, notes, and other documents.* When the remittance which paid an account in full has been processed by FmHA or its successor agency under Public Law 103-354, the paid note and satisfied mortgage may be returned to the borrower. If other provisions exist, the mortgage will not be satisfied until the total indebtedness secured by the mortgage is paid. For instance, in a situation where a rural housing loan is paid-in-full and there is a subsidy recapture receivable balance that the borrower elects to delay repaying, the amount of recapture to be repaid will be determined when the principal and interest balance is paid. The mortgage securing the RHS, RBS, RUS, and/or FSA or its successor agency under Public Law 103-354 debt will not be released of record until the total amount owed the Government is repaid. To permit graduation or refinancing by the borrower, the mortgage securing the recapture owed may be subordinated.

(1) If FmHA or its successor agency under Public Law 103-354 receives final payments in a form other than cash, U.S. Treasury check, cashier's check, certified check, money order, bank draft, or check issued by an institution determined by FmHA or its successor agency under Public Law 103-354 to be financially responsible, the mortgage and paid note will not be released until after a 30-day waiting period. If other indebtedness to FmHA or its successor agency under Public Law 103-354 is not secured by the mortgage, FmHA or its successor agency under Public Law 103-354 will execute the satisfaction or release. When the stamped note is delivered to the borrower, FmHA or its successor agency under Public Law 103-354 will also deliver the real estate mortgage and related title papers such as title opinions, title insurance binders, certificates of title, and abstracts which are the property of the borrower. Any water stock certificates or other securities that are the property of the borrower will be returned to the borrower. Also, any assignments of income will be terminated as provided in the assignment forms.

(2) Delivery of documents at the time of final payment will be made when payment is in the form of cash, U.S.

Treasury check, cashier's check, certified check, money order, bank draft, or check issued by an institution determined by FmHA or its successor agency under Public Law 103-354 to be responsible. FmHA or its successor agency under Public Law 103-354 will not accept payment in the form of foreign currency, foreign checks or sight drafts. FmHA or its successor agency under Public Law 103-354 will execute the satisfaction or release (unless other indebtedness to FmHA or its successor agency under Public Law 103-354 is covered by the mortgage) and mark the original note with a paid-in-full legend based upon receipt of the full payment balance of the borrower's account(s), computed as of the date final payment is received. In unusual cases where an insured promissory note is held by a private holder, FmHA or its successor agency under Public Law 103-354 can release the mortgage and deliver the note when it is received.

(d)-(e) [Reserved]

(f) *Cost of recording or filing of satisfaction.* The satisfaction or release will be delivered to the borrower for recording and the recording costs will be paid by the borrower, except when State law requires the mortgagee to record or file satisfactions or release and pay the recording costs.

(g) *Property insurance.* When the borrower's loan has been paid-in-full and the satisfaction or release of the mortgage has been executed, FmHA or its successor agency under Public Law 103-354 may release the mortgage interest in the insurance policy as provided in subpart A of part 1806 of this chapter (FmHA or its successor agency under Public Law 103-354 Instruction 426.1).

(h) [Reserved]

(i) *Outstanding Loan Balance(s).* FmHA or its successor agency under Public Law 103-354 will attempt to collect any account balance(s) that may result from an error by FmHA or its successor agency under Public Law 103-354 in handling final payments according to paragraph 1951.155(b) of this section. If collection cannot be made, the debt will be settled according to subpart B of part 1956 of this chapter or reclassified to collection-only. A deficiency judgment may be considered if the balance is a significant amount

RHS, RBS, RUS, FSA, USDA

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(\$1,000 or more) and the borrower has known assets.

[57 FR 774, Jan. 9, 1992, as amended at 60 FR 55145, Oct. 27, 1995]

§§ 1951.156–1951.200 [Reserved]

Subpart E—Servicing of Community and Direct Business Programs Loans and Grants

SOURCE: 55 FR 4399, Feb. 8, 1990, unless otherwise noted.

§ 1951.201 Purposes.

This subpart prescribes the Rural Development mission area policies, authorizations and procedures for servicing the following programs: Water and Waste Disposal System loans and grants, Community Facility loans and grants, Rural Business Enterprise/Television Demonstration grants; loans for Grazing and other shift-in-land-use projects; Association Recreation loans; Association Irrigation and Drainage loans; Watershed loans and advances; Resource Conservation and Development loans; Direct Business loans; Economic Opportunity Cooperative loans; Rural Renewal loans; Energy Impacted Area Development Assistance Program grants; National Nonprofit Corporation grants; Water and Waste Disposal Technical Assistance and Training grants; Emergency Community Water Assistance grants; System for Delivery of Certain Rural Development Programs panel grants; section 306C WWD loans and grants; and, in part 4284 of this title, Rural and Cooperative Development Grants, Value-Added Producer Grants and Agriculture Innovation Center Grants. Rural Development State Offices act on behalf of the Rural Utilities Service, the Rural Business-Cooperative Service and the Farm Service Agency as to loan and grant programs formerly administered by the Farmers Home Administration and the Rural Development Administration. Loans sold without insurance to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this Subpart

will not be made applicable to such loans.

[69 FR 23425, Apr. 29, 2004]

§ 1951.202 Objectives.

The purpose of loan and grant servicing functions is to assist recipients to meet the objectives of loans and grants, repay loans on schedule, comply with agreements, and protect FmHA or its successor agency under Public Law 103-354's financial interest. Supervision by FmHA or its successor agency under Public Law 103-354 includes, but is not limited to, review of budgets, management reports, audits and financial statements; performing security inspections and providing, arranging for, or recommending technical assistance; evaluating environmental impacts of proposed actions by the borrower; and performing civil rights compliance reviews.

§ 1951.203 Definitions.

(a) *Approval official.* An official who has been delegated loan and/or grant approval authorities within applicable programs, subject to the dollar limitations of exhibits A, B, and C of subpart A of part 1901 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office).

(b) *Assumption of debt.* The agreement by one party to legally bind itself to pay the debt incurred by another.

(c) *CONACT.* The Consolidated Farm and Rural Development Act, as amended.

(d) *Eligible applicant.* An entity that would be legally qualified for financial assistance under the loan or grant program involved in the servicing action.

(e) *Ineligible applicant.* An entity or individual that would not be considered eligible for financial assistance under the loan or grant program involved in the servicing action.

(f) *Nonprogram (NP) loan.* An NP loan exists when credit is extended to an ineligible applicant and/or transferee in connection with loan assumptions or sale of inventory property; any recipient in cases of unauthorized assistance; or a recipient whose legal organization has changed as set forth in §1951.220(e) of this subpart resulting in the borrower being ineligible for program benefits.