

§ 1951.231 Special provisions applicable to Economic Opportunity (EO) Cooperative Loans.

(a) *Withdrawal of member and transfer to and assumption by new members of Unincorporated Cooperatives.* (1) Withdrawal of a member who is no longer utilizing the services of an association and transfer of withdrawing member interest in the association to a new member who will assume the entire unpaid balance of the indebtedness of the withdrawing member may be permitted, if the remaining members agree to accept the new member and the transfer will not adversely affect collection of the loan. The servicing office will submit to the State Office the borrow case file and the following:

(i) Form FmHA or its successor agency under Public Law 103-354 1951-15 executed by the proposed new member;

(ii) Statement of the current amount of the indebtedness involved;

(iii) A description and statement of the value of the security property;

(iv) A memorandum to justify the transaction;

(v) Form FmHA or its successor agency under Public Law 103-354 440-2, "County Committee Certification or Recommendation;"

(vi) Exhibit B of this subpart, "Agreement for New Member (With or Without Withdrawing Member)," (available in any FmHA or its successor agency under Public Law 103-354 office), executed by the remaining members of the association, the proposed new member, and the withdrawing member; and

(vii) Form FmHA or its successor agency under Public Law 103-354 450-12, "Bill of Sale (Transfer by Withdrawing Member)," executed by the withdrawing member.

(2) If the State Director determines after review of the above information that the proposed new member is eligible and the transfer is justified, the State Director may approve the transfer and assumption by executing Form FmHA or its successor agency under Public Law 103-354 1951-15.

(3) Upon completion of the above actions, the State Director may release the outgoing member from personal liability using Form FmHA or its suc-

cessor agency under Public Law 103-354 1965-8.

(4) If Finance Office records must be changed due to changes in borrower name, address and/or case number, necessary documents, including Form FmHA or its successor agency under Public Law 103-354 1951-15 and, if applicable, Form FmHA or its successor agency under Public Law 103-354 1965-8, will be forwarded to the Finance Office immediately with a memorandum indicating that the purpose of the submission is only to establish liability for a new member and release an old member from liability.

(b) *Withdrawal of members from Unincorporated Cooperatives when new member not available.* Withdrawal of a member who no longer utilizes the services of an association may be permitted even though a new member is not available, provided:

(1) The State Director determines that the remaining members have sufficient need for the property, and that the withdrawal of the member will not adversely affect collection of the loan; and

(2) The remaining members obtain from the outgoing member an agreement conveying his or her interest in the cooperative property to them. They may also wish to agree to protect the outgoing member against liability on the debt owed to FmHA or its successor agency under Public Law 103-354 as well as any other debts. Exhibit C of this subpart, "Agreement for Withdrawal of Member (Without New Member)," (available in any FmHA or its successor agency under Public Law 103-354 office), may be used by the cooperative. FmHA or its successor agency under Public Law 103-354 will not be a party to the agreement.

(c) *Addition of new members (no withdrawing member or transfer involved) for both Incorporated and Unincorporated Cooperatives.* (1) A new member may be admitted to the association even though there is no withdrawing member, if:

(i) The members of the association agree to accept the proposed new member, and

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(ii) The State Director determines that the association owns adequate facilities to provide service to the new member.

(2) The servicing office will submit to the State Office the case file and items (i) through (vi) of § 1951.231(a)(1).

(3) If the State Director determines after the review of the above information that the proposed new member is eligible and the transaction is justified, the State Director may approve the transaction by executing Form FmHA or its successor agency under Public Law 103-354 1951-15.

(4) Form FmHA or its successor agency under Public Law 103-354 1951-15 will be forwarded immediately to the Finance Office with a memorandum indicating that the form is intended only to establish liability for a new member.

(d) *Deceased members of Unincorporated Cooperatives.* Form FmHA or its successor agency under Public Law 103-354 442-24, "Operating Agreement," (now obsolete) was executed by recipients of these loans. Paragraph 10 of that form provides that in case of the death of any member, the heirs or personal representative of the deceased member shall take the deceased member's place in the association. This provision also covers sale of the decedent's interest in the association if the sale is necessary to pay debts of the estate.

(1) If the heirs or personal representative do not wish to continue membership in the association, the remaining members may be permitted to continue to operate the property if FmHA or its successor agency under Public Law 103-354's financial interest will not be jeopardized. The remaining members should obtain from the deceased member's estate an agreement conveying the estate's interest in the cooperative property to them. The remaining members may wish to agree to protect the estate against liability on the debt to FmHA or its successor agency under Public Law 103-354 as well as any other debts of the cooperative.

(2) The requirement of § 1962.46(h) of subpart A of part 1962 will also be followed.

(e) *Action which affects individual members of Unincorporated EO Cooperative security.* The borrower will be expected to protect its own interest in

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condemnation, trespass, quiet title, and other cases affecting the security. The servicing office will immediately furnish the complete facts concerning any action taken against individual members of Unincorporated Cooperatives to the State Director together with the case file.

(f) *Debt Settlement.* Debt settlement actions for Economic Opportunity Cooperative loans must be handled under the Federal Claims Collection Act; proposals will be submitted to the National Office for review and approval.

§ 1951.232 Water and waste disposal systems which have become part of an urban area.

A water and/or waste disposal system serving an area which was formerly a rural area as defined in § 1942.17(b)(2)(iii) and (iv) of subpart A of part 1942 of this chapter, but which has become in its entirety part of an urban area, will be serviced in accordance with this section.

(a) *Curtailement or limitation of service.* Service may not be curtailed or limited by the inclusion of a system within an urban area.

(b) *Sale or transfer and assumption.* (1) The urban community or another entity may purchase the facility involved and immediately pay the FmHA or its successor agency under Public Law 103-354 debt in full; or

(2) The urban community or another entity may accept a transfer of the FmHA or its successor agency under Public Law 103-354 debt on an ineligible applicant basis.

(3) When a grant is involved, the entity will agree in writing to assume all rights and obligations of the original grantee. See § 1951.215 for additional guidance on grant agreements.

(c) *Lease-purchase arrangement.* If § 1951.232(b) (1) and (2) of this section are not practicable, the urban community may, with prior approval of the National Office, operate and maintain the system under a lease-purchase arrangement which provides that:

(1) The urban community will:

(i) Assume responsibility for operation and maintenance of the facility, subject to nondiscrimination and all other requirements which are applicable to the borrower, which are to be