

§ 1951.264

financial statements will be those normally required at the end of the particular borrower's fiscal year. For borrowers who are not requested to furnish audited financial statements, the balance sheet and statement of income and expenses may be of the borrower's own format if the borrower's financial situation is accurately reflected. The borrower has 60 days for group type loans and 30 days for individual type loans to supply the financial information requested.

(d) [Reserved]

(e) *Requesting the borrower to graduate.* (1) The Agency will send written notice to borrowers found able to graduate requesting them to graduate. The borrower must seek a loan only in the amount necessary to repay the unpaid balance.

(2) Borrowers must provide evidence of their ability or inability to graduate within 30 days for RH borrowers, and 90 days for group type borrowers, after the date of the request. The Agency may allow additional time for good cause, for example when a borrower expects to receive income in the near future for the payment of accounts which would substantially reduce the amount required for refinancing, or when a borrower is a public body and must issue bonds to accomplish graduation.

(3) If a borrower is unable to graduate the full amount of the loan, the borrower must furnish evidence to the Agency, showing:

(i) The names of other lenders contacted;

(ii) The amount of loan requested by the borrower and the amount, if any, offered by the lenders;

(iii) The rates and terms offered by the lenders or the specific reasons why other credit is not available; and

(iv) The purpose of the loan request.

(4) The difference in interest rates between the Agency and other lenders will not be sufficient reason for failure to graduate if the other credit is available at rates and terms which the borrower can reasonably be expected to pay. An exception is made where there is an interest rate ceiling imposed by Federal law or contained in the note or mortgage.

(5) The Agency will notify the borrower in writing if it determines that

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the borrower can graduate. The borrower must take positive steps to graduate within 15 days for individual loans and 60 days for group loans from such notice to avoid legal action. The servicing official may grant a longer period where warranted.

§ 1951.264 Action when borrower fails to cooperate, respond or graduate.

(a) When borrowers with other than FCP loans fail to:

(1) Provide information following receipt of both FmHA Guide Letters 1951-1 and 1951-2 (available in any Agency office), or letters of similar format, they are in default of the terms of their security instruments. The approval official may, when appropriate, accelerate the account based on the borrower's failure to perform as required by this subpart and the loan and security instruments.

(2) Apply for or accept other credit following receipt of both FmHA Guide Letters 1951-F-5 and 1951-6 (available in any Agency office), or letters of similar format, they are in default under the graduation requirement of their security instruments. If the Agency determines the borrower is able to graduate, foreclosure action will be initiated in accordance with § 1955.15(d)(2)(ii). If the borrower's account is accelerated, the borrower may appeal the decision.

(b) If an FCP borrower fails to cooperate after a lender expresses a willingness to consider refinancing the Agency loan, the account will be referred for legal action.

§ 1951.265 Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate.

(a) Any borrower who appears to meet the local commercial lending standards, taking into consideration the Agency's loan guarantee program, will not be considered for a subsequent loan, subordination, or consent to additional indebtedness until the borrower's ability or inability to graduate has been confirmed. An exception may be made where the proposed action is needed to alleviate an emergency situation, such as meeting applicable

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health or sanitary standards which require immediate attention.

(b) If the borrower has been requested to graduate and has also been denied a request for a subsequent loan, subordination, or consent to additional indebtedness, the borrower may appeal both issues.

§ 1951.266 Special requirements for MFH borrowers.

All requirements of subpart E of part 1965 must be met prior to graduation and acceptance of the full payment from an MFH borrower.

EFFECTIVE DATE NOTE: At 69 FR 69105, Nov. 26, 2004, §1951.266 was revised, effective Feb. 24, 2005. For the convenience of the user, the revised text is set forth as follows:

§ 1951.266 Special requirements for MFH borrowers.

All requirements of 7 CFR part 3560, subpart K must be met prior to graduation and acceptance of the full payment from an MFH borrower.

§§ 1951.267-1951.299 [Reserved]

§ 1951.300 OMB control number.

The reporting requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0093.

EXHIBIT A TO SUBPART F OF PART 1951 [RESERVED]

EXHIBIT B TO SUBPART F OF PART 1951— SUGGESTED OUTLINE FOR SEEKING INFORMATION FROM LENDERS ON CREDIT CRITERIA FOR GRADUATION OF SINGLE FAMILY HOUSING LOANS

Date:
Name of Lender:
Title:
Address:
Name of County Supervisor:
Service Area:

1. Is the lender interested in making loans to refinance rural housing borrowers? Yes: ; No: . If later, when?

How much credit does the lender expect to have available in the next three to four months for making such loans? \$ In the next twelve (12) months? \$

2. What are the loan terms?

3. What is the current interest rate? Variable rate. Fixed rate. If variable, how is it determined?

4. Is a risk differential used in establishing interest rates charged for new customers? Yes: ; No: . If yes, explain:

5. What can a typical loan applicant be expected to pay for:

Table with 3 columns: Item, Dollars, Or percent. Rows include: a. Filing an application, b. Real estate appraisal, c. Credit report, d. Loan origination fee, e. Loan closing costs.

6. Is mortgage guarantee insurance required? Yes: ; No: . If yes, how many years? . Cost? .

7. Is there a minimum or maximum loan size policy? Yes: ; No: . If yes, explain: -

8. Is there a minimum and maximum home value the lender will loan on? Yes: ; No: . If yes, minimum: \$; maximum: \$.

9. Does the lender use a loan to market value ratio? .

10. Is there a minimum net and gross income criteria? Yes: ; No: . If yes, net: \$; gross: \$.

11. Does the lender use a minimum loan or home value to income ratio? Yes: ; No: . If yes, loan to income ratio: Value to income ratio: .

12. Is there a percentage of gross income a typical applicant should have available to pay housing costs? .

a. To pay for principal, interest, taxes and insurance (PITI)? %.

b. To pay for the total housing costs and other credit obligations? %.

13. Are there any age of home, housing type, site size, and/or geographic restriction policies? Yes: ; No: . If yes, List:

14. Other Comments:

15. For the purpose of reducing the number of inappropriate referrals, would the lender like the opportunity to review specific borrower financial information prior to the borrower being asked to file a formal application? Yes: ; No: . If the answer is yes, only those borrowers who are listed on Form FmHA or its successor agency under Public Law 103-354 1951-24 will be referred to the bank. The lenders should be advised, however, the information supplied to them will