

a Substandard classification but do possess credit deficiencies deserving FmHA or its successor agency under Public Law 103-354's close attention because the failure to correct these deficiencies could result in greater risk in the future. This classification would include loans that may be high quality, but which FmHA or its successor agency under Public Law 103-354 is unable to supervise properly because of an inadequate loan agreement, the condition or lack of control over the collateral, failure to obtain proper documentation or any other deviations from prudent lending practices. Adverse trends in the intermediary's operation or an imbalanced position in the balance sheet which has not reached a point that jeopardizes the repayment of the loan should be assigned to this classification. Loans in which actual, not potential, weaknesses are evident and significant should be considered for a Substandard classification.

(d) *Substandard classification.* This classification includes loans which are inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged, if any. Loans in this classification must have a well defined weakness or weaknesses that jeopardize the payment in full of the debt. If the deficiencies are not corrected, there is a distinct possibility that FmHA or its successor agency under Public Law 103-354 will sustain some loss.

(e) *Doubtful classification.* This classification includes those loans which have all the weaknesses inherent in those classified Substandard with the added characteristic that the weaknesses make collection or liquidation in full, based on currently known facts, conditions and values, highly questionable and improbable.

(f) *Loss classification.* This classification includes those loans which are considered uncollectible and of such little value that their continuance as loans is not warranted. Even though partial recovery may be effected in the future, it is not practical or desirable to defer writing off these basically worthless loans.

§§ 1951.886-1951.888 [Reserved]

**§ 1951.889 Transfer and assumption.**

(a) All transfers and assumptions must be approved in advance in writing by FmHA or its successor agency under Public Law 103-354. Such transfers and assumptions must be to an eligible intermediary.

(b) Available transfer and assumption options to eligible intermediaries include the following:

(1) The total indebtedness may be transferred to another eligible intermediary on the same terms.

(2) The total indebtedness may be transferred to another eligible intermediary on different terms not to exceed those terms for which an initial loan can be made to an organization that would have been eligible originally.

(3) Less than total indebtedness may be transferred to another eligible intermediary on the same terms.

(4) Less than total indebtedness may be transferred to another eligible intermediary on different terms.

(c) The transferor will prepare the transfer document for FmHA or its successor agency under Public Law 103-354's review prior to the transfer and assumption.

(d) The transferee will provide FmHA or its successor agency under Public Law 103-354 with a copy of its latest financial statement and a copy of its annual financial statement for the past 3 years if available; its Federal Tax Identification number; organizational charter; minutes from the Board of Directors authorizing the transaction; certification of good standing from the Secretary of State or whatever regulatory agency oversees nonprofit corporations for that State or Commonwealth where the entity is headquartered; and any other information that FmHA or its successor agency under Public Law 103-354 deems necessary for its review.

(e) The assumption agreement will contain the FmHA or its successor agency under Public Law 103-354 case number of the transferor and transferee.

(f) When the transferee makes a cash downpayment in connection with the transfer and assumption, any proceeds

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received by the transferor will be credited on the transferor's loan debt in inverse order of maturity.

(g) The Administrator or designee will approve or decline all transfers and assumptions.

**§ 1951.890 Office of Inspector General and Office of General Counsel referrals.**

When facts or circumstances indicate that criminal violations, civil fraud, misrepresentations, or regulatory violations may have been committed by an applicant or an intermediary, FmHA or its successor agency under Public Law 103-354 will refer the case to the appropriate Regional Inspector General for Investigations, OIG, USDA, in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2012-B (available in any FmHA or its successor agency under Public Law 103-354 office) for criminal investigation. Any questions as to whether a matter should be referred will be resolved through consultation with OIG and FmHA or its successor agency under Public Law 103-354 and confirmed in writing. In order to assure protection of the financial and other interests of the Government, a duplicate of the notification will be sent to the OGC. OGC will be consulted on legal questions. After OIG has accepted any matter for investigation, FmHA or its successor agency under Public Law 103-354 staff must coordinate with OIG in advance regarding routine servicing actions on existing loans.

**§ 1951.891 Liquidation; default.**

(a) In the event that FmHA or its successor agency under Public Law 103-354 takes over the servicing of the ultimate recipient of an intermediary, those loans will be serviced by this regulation and in accordance with the contractual arrangement between the intermediary and the ultimate recipient. Should the FmHA or its successor agency under Public Law 103-354 determine that it is necessary or desirable to take action to protect or further the interests of FmHA or its successor agency under Public Law 103-354 in connection with any default or breach of conditions under any loan made

hereunder, the FmHA or its successor agency under Public Law 103-354 may:

(1) Declare that the loan is immediately due and payable.

(2) Assign or sell at public or private sale, or otherwise dispose of for cash or credit at its discretion and upon such terms and conditions as FmHA or its successor agency under Public Law 103-354 shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property or security assigned to or held by the FmHA or its successor agency under Public Law 103-354 in connection with financial assistance extended hereunder.

(3) Adjust interest rates, use fixed or variable rates, grant moratoriums on repayment of principal and interest, collect or compromise any obligations held by FmHA or its successor agency under Public Law 103-354 and take such actions in respect to such loans as are necessary or appropriate, consistent with the purpose of the program and this subpart. The Administrator will notify the FmHA or its successor agency under Public Law 103-354 Finance Office of any change in payment terms, such as reamortizations or interest rate adjustments, and effective dates of any changes resulting from servicing actions.

(b) Failure by an ultimate recipient to comply with the provisions of these regulations and/or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of its loan.

(c) Failure by an intermediary to comply with the provisions of these regulations or to relend funds in accordance with an approved work plan or loan agreement shall constitute grounds for a declaration of default and the demand for immediate and full repayment of the loan.

(d) In the event of default, the intermediary will promptly be informed in writing of the consequences of failing to comply with loan covenant(s).

(e) Protective advances to the intermediary will not be made in lieu of additional loans, in particular working capital loans. Protective advances are advances made by FmHA or its successor agency under Public Law 103-354