

## § 1955.117

\*For advertisements, the sentence preceding the asterisk may be deleted and replaced with the following, or similar sentence: "Contact FmHA or its successor agency under Public Law 103-354 (or any real estate broker/name of exclusive broker) for a list of items which must be repaired/renovated." For notices other than advertising, insert those items which are necessary to make the dwelling unit(s) meet DSS standards. Examples are:

- Replace flooring and floor joists in kitchen and bathroom.
- Drill new well to provide for an adequate and potable water supply.
- Hook-up to community water and sewage system now being installed.
- Provide a functionally adequate, safe and operable\* system. \*Insert heating, plumbing, electrical and/or sewage disposal, etc., as appropriate.
- Install\*. \*Insert new roof, foundation, sump pump, bathroom fixtures, etc., as appropriate.
- Install R-\* insulation in basement walls or ceiling, R-\* insulation in attic, and storm windows/doors throughout. \*Insert appropriate R-Values to meet Thermal Performance Standards.

(b) *Sale agreements.* If a housing structure in inventory does not meet DSS standards, Form FmHA or its successor agency under Public Law 103-354 1955-44 must be attached to Forms FmHA or its successor agency under Public Law 103-354 1955-45 or FmHA or its successor agency under Public Law 103-354 1955-46, as appropriate, to provide notification of the deed restriction and required repairs/renovations before the dwelling can be used for residential purposes.

(c) *Quitclaim Deed.* The following, the original of Form FmHA or its successor agency under Public Law 103-354 1955-44, or similar restrictive clause adapted for use in an individual State pursuant to a State Supplement approved by OGC must be added to the Quitclaim Deed for properties which do not meet DSS standards at the time of sale but which could through the repair/renovation activities of the future owner:

Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480(e), the purchaser ("Grantee" herein) of the above-described real property (the "subject property" herein) covenants and agrees with the United States acting by and through Farmers Home Administration or its successor agency under Public Law 103-354 (the "Grantor" herein) that the dwelling unit(s)

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located on the subject property as of the date of this Quitclaim Deed will not be occupied or used for residential purposes until the item(s) listed at the end of this paragraph have been accomplished. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and will be construed as both a covenant running with the subject property and as equitable servitude. This covenant will be enforceable by the United States in any court of competent jurisdiction. When the existing dwelling unit(s) on the subject property complies with the aforementioned standards of the Farmers Home Administration or its successor agency under Public Law 103-354 or the unit(s) has been completely razed, upon application to the Farmers Home Administration or its successor agency under Public Law 103-354 in accordance with its regulations, the subject property may be released from the effect of this covenant and the covenant will thereafter be of no further force or effect. The property must be repaired and/or renovated as follows: "\*" \*Insert the same items referenced in the listing notice(s) and sale agreement which are necessary to make the dwelling unit(s) meet DSS standards.

(d) *Release of restrictive covenant.* Upon request of the property owner for a release of the restrictive covenant, FmHA or its successor agency under Public Law 103-354 will inspect the property to ensure that the repairs/renovations outlined in the restrictive covenant have been properly completed or the structure(s) razed. A State Supplement outlining the procedure for releasing the restrictive covenant will be issued with the advice of OGC.

[53 FR 27834, July 25, 1988]

### § 1955.117 Processing credit sales on program terms (housing).

The following provisions apply to all credit sales on program terms:

(a) *Offers.* Form FmHA or its successor agency under Public Law 103-354 1955-45 will be used to document the offer and acceptance for regular FmHA or its successor agency under Public Law 103-354 sales. The contract is accepted prior to processing Form FmHA or its successor agency under Public Law 103-354 410-4, "Application for Rural Housing Assistance (Non-Farm Tract)," for SFH property with the provision that acceptance is subject to program approval. MFH property sales

require an application package comparable to that submitted for the respective loan program application.

(b) *Processing.* The FmHA or its successor agency under Public Law 103-354 regulations pertaining to the type of credit being extended will be followed in making credit sales on program terms except as modified by the provisions of this section. All MFH credit sales may be made for up to 100 percent of the current market value of the security, less any prior lien. However, if a profit or limited profit applicant desires to earn a return, the applicant will be required to contribute at least 3 percent of the purchase price as a cash downpayment. All credit sales of RRH, RCH, and LH properties will be subject to prepayment and restrictive-use provisions specified by the respective program requirements.

(c) *Approval.* Forms FmHA or its successor agency under Public Law 103-354 1940-1 or FmHA or its successor agency under Public Law 103-354 1944-51, as appropriate, will be used to approve a credit sale even though no obligation of funds is required.

(d) *Downpayment.* When a downpayment is made, it will be collected at closing.

(e) *Interest rate.* Upon request of the applicant, the interest rate charged by FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rate in effect at the time of loan approval or closing. If the applicant does not indicate a choice, the loan will be closed at the rate in effect at the time of loan approval.

(f) *Closing costs.* MFH purchasers will pay closing costs from their own funds. Where necessary, SFH purchasers who qualify may be made a subsequent loan to pay closing costs in an amount not to exceed 1 percent of the sale price of the dwelling. Any closing costs which are legally or customarily paid by the seller will be paid by FmHA or its successor agency under Public Law 103-354 and charged to the inventory account as a nonrecoverable cost item.

(g) *Closing sale.* Title clearance, loan closing and property insurance requirements for a credit sale, and any loan closed simultaneously with the credit sale, are the same as for a program loan of the same type except:

(1) The property will be conveyed in accordance with §1955.141(a) of this subpart.

(2) Earnest money, if any, will be used to pay purchaser's closing costs with any balance of closing costs being paid from the purchaser's personal funds except as provided in paragraph (f) of this section. For SFH credit sales and MFH credit sales to nonprofit organizations or public bodies, any excess deposit will be refunded to the purchaser. For MFH credit sales to profit or limited profit buyers, any excess earnest money deposit will be credited to the purchase price and recognized as a part of the purchaser's initial investment.

(3) The County Supervisor or District Director will provide the closing agent with the necessary information for closing the sale. The assistance of OGC will be requested to provide closing instructions in exceptional or complex cases and for all MFH sales.

(h) *Reporting.* After the sale is closed, it will be reported according to §1955.142 of this subpart.

[53 FR 27834, July 25, 1988; 54 FR 6875, Feb. 15, 1989, as amended at 58 FR 38928, July 21, 1993; 68 FR 61332, Oct. 28, 2003]

EFFECTIVE DATE NOTE: At 69 FR 69106, Nov. 26, 2004, §1955.117 was amended in paragraph (c) by revising the words "FmHA or its successor agency under Public Law 103-354 1944-51" to read "RD 3560-51", effective Feb. 24, 2005.

#### **§ 1955.118 Processing cash sales or MFH credit sales on NP terms.**

(a) *Cash sales.* Cash sales will be closed by the servicing official collecting the purchase price (less any earnest money deposit or bid deposit) and delivering the deed to the purchaser.

(b) *Credit sales.* The following provisions apply to MFH credit sales on NP terms:

(1) *Offers.* Form FmHA or its successor agency under Public Law 103-354 1955-45 or FmHA or its successor agency under Public Law 103-354 1955-46, as appropriate, will be used to document the offer and acceptance. Contract acceptance is made prior to processing a request for credit on NP terms.

(2) *Processing.* Purchasers requesting credit on NP terms will be required to