

after liquidation has been approved, for essential repairs and parts for machinery and equipment to place it in reasonable condition for sale, provided written agreements from any holders of liens which are prior to those of the Agency state that such bills may be paid from the sales proceeds ahead of their liens.

(i) However, any such expenses incurred by the U.S. Marshal or other similar official such as a local sheriff may not be paid from sale proceeds turned over to the Agency.

(ii) On the other hand, if the U.S. Marshal or other similar official such as a local sheriff has taken possession of the property and delivered it to the Agency for sale, such costs incurred by the Agency after delivery of the property to it may be paid from the proceeds of the sale.

(2) To pay liens which are prior to the Agency liens provided that:

(i) State and local tax liens on security or EO property which are prior to the liens of the Agency will be paid only when demand is made by tax collecting officials before distributing the sale proceeds. The sale proceeds will not be used to pay real estate, income, or other taxes which are not a lien against the security, or to pay substantial amounts of personal property taxes on nonsecurity personal property.

(ii) If action is threatened or taken by the sheriff or other official to collect taxes not authorized in subparagraph (b)(2)(i) of this section to be paid out of the security or the sale proceeds, the sale will be postponed unless an arrangement can be made to deposit in escrow with a responsible, disinterested party an amount equal to the tax claim, pending determination of priority rights. When the sale is postponed, or an escrow arrangement is made, the matter will be reported promptly to the State Director for referral to OGC.

(iii) If the Agency subordinations have been approved, their intent will be recognized in the use of sale proceeds even though the creditor in whose favor the the Agency lien was subordinated did not obtain a lien. If there are other third party liens on the property, however, the lien-holders

must agree to the use of the sale proceeds to pay such creditor first.

(3) To pay rent for the current crop year from the sale proceeds of other than basic security or EO property. However, there must be no liens junior to the Agency other than the landlord's lien, if any, and the borrower must consent in writing to the payment.

(4) To pay debts owed the Agency which are secured by liens on the property sold.

(5) To pay liens junior to those of the Agency in accordance with their priorities on the property sold, including any landlord's liens for rent unless such liens already have been paid. Junior liens will not be paid unless, on request, the lienholder gives proof of the existence and the amount of his or her lien.

(6) To pay on any EO unsecured debt.

(7) To pay rent for the current crop year if the borrower consents in writing to payment and if such rent has not already been paid as provided in paragraph (b) (2), (3), or (5) of this section.

(8) To pay on any other the Agency debts, either unsecured or secured by liens on property which is not being sold. However, in justifiable circumstances, the State Director may approve the use of a part or all of the remainder of such sale proceeds by the borrower for other purposes, provided the other the Agency debts are adequately secured, or the borrower arranges to pay the other debts from income or other sources and these payments can be depended upon.

(9) To pay the remainder to the borrower.

(c) [Reserved]

[50 FR 45783, Nov. 1, 1985, as amended at 61 FR 35931, July 9, 1996]

§ 1962.45 Reporting sales.

Form FmHA or its successor agency under Public Law 103-354 1955-3, "Advice of Property Acquired," will be prepared and distributed according to the FMI when property is acquired by FmHA or its successor agency under Public Law 103-354.

§ 1962.46 Deceased borrowers.

Immediately on learning of the death of any person liable to the Agency, the