

chapter. Voluntary debt adjustment will be utilized, as appropriate, in accordance with subpart A of part 1903 of this chapter.

(B) Proceeds will not be used to pay current crop/operating year family living and/or operating expenses, as developed in the Annual Plan in accordance with §1924.56 of subpart B of part 1924 of this chapter.

(iii) Develop land not owned by the borrower which is essential to the borrower's operation in an amount not to exceed \$10,000, provided: the improvements are needed to improve the borrower's repayment ability and the borrower has tenure arrangements which justify the use of the proceeds on the land not owned by the borrower. Development work performed will be in accordance with subpart A of part 1924 of this chapter. Funds will be handled under subpart A of part 1902 of this chapter.

(5) When liquidation action is pending in accordance with §1965.26 of this subpart, the County Supervisor or District Director is authorized to approve transactions only when all the proceeds (other than costs authorized in paragraph (f)(2) of this section) will be applied to the liens against the security in the order of their priority.

(g) *Authority of the State Director.* The State Director is authorized to approve transactions that exceed the approval authority granted in paragraph (e) of this section to the County Supervisor and District Director, or that involve an easement or right-of-way granted or conveyed without monetary compensation or for a token consideration. When approving these transactions, the State Director must determine that the requirements of paragraph (b) of this section are met.

(h) *Processing.* FmHA or its successor agency under Public Law 103-354's consent will be given by approving a completed Form FmHA or its successor agency under Public Law 103-354 465-1 if the transaction meets the conditions of paragraph (b) of this section. Also, when requested, FmHA or its successor agency under Public Law 103-354 will give a written partial release on Form FmHA or its successor agency under Public Law 103-354 460-1, "Partial Release," or other form approved by OGC.

A formal release may not be delivered for 15 days after the payment is received unless payment is made in the form of cash, money order, certified check, or check from a reputable lending agency. Releases not delivered will usually be voided 30 days after notification to the requesting party that the release is available. When an insured FO mortgage is held by the lender, the holder's consent will be obtained only if a written partial release or other written servicing document is requested by the borrower. When the approval of a transaction by the State Director is required, or when the County Supervisor or District Director desires advice in connection with approval of a transaction, the borrower's case folder, Form FmHA or its successor agency under Public Law 103-354 465-1, and any other information pertinent to the transaction will be sent to the State Office.

(i) *Liquidation.* If FmHA or its successor agency under Public Law 103-354 is unable to approve a partial sale, the partial sale cannot be used as the basis for liquidation in the following circumstances:

(1) The spouse or children of the borrower become the owner of the property.

(2) The sale results from a divorce or legal separation and the spouse of the borrower becomes the owner of the property.

(3) An *intervivos* trust becomes the owner of the property so long as the borrower is a beneficiary of the trust and there is no change in occupancy of the property.

[51 FR 4140, Feb. 3, 1986, as amended at 52 FR 26139, July 13, 1987; 53 FR 35795, Sept. 14, 1988; 56 FR 10154, Mar. 11, 1991; 57 FR 775, Jan. 9, 1992; 58 FR 44752, Aug. 25, 1993; 58 FR 52654, Oct. 12, 1993; 61 FR 35931, July 9, 1996; 64 FR 62569, Nov. 17, 1999; 66 FR 7568, Jan. 24, 2001; 69 FR 30999, June 2, 2004]

§ 1965.14 Subordination of FmHA or its successor agency under Public Law 103-354 real estate mortgages to easements to the U.S. Fish and Wildlife Service, (formerly the Bureau of Sport Fisheries and Wildlife).

Exhibit A (available in any FmHA or its successor agency under Public Law

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103-354 office) of this subpart, “Memorandum of Understanding between Bureau of Sport Fisheries and Wildlife (now the U.S. Fish and Wildlife Service) and the Farmers Home Administration or its successor agency under Public Law 103-354,” outlines the procedure to follow in processing a subordination of an FmHA or its successor agency under Public Law 103-354 mortgage on wetlands on which the Bureau of Sport Fisheries and Wildlife requests an easement for waterfowl habitats. The County Supervisor will handle the request in accordance with the steps outlined in Exhibit A and applicable processing portions of §1965.12 of this subpart.

§1965.15 Subordination of FmHA or its successor agency under Public Law 103-354's lien to the Commodity Credit Corporation's (CCC) security interest taken for loans made for farm storage and drying equipment.

The CCC makes loans under its Farm Storage and Drying Equipment Loan Program for the purchase, construction, erection, remodeling, or installation of either farm storage or drying equipment or both and requires that any loan at the discretion of the approving committee, be secured by a lien on the real estate. When the CCC proposes to make a loan to an FmHA or its successor agency under Public Law 103-354 borrower and requests a subordination of the FmHA or its successor agency under Public Law 103-354 real estate lien, the request will be handled on an individual case basis under §1965.12 of this subpart. A borrower's request for the FmHA or its successor agency under Public Law 103-354's consent to a severance agreement or other similar instrument for an item or items to be acquired with a CCC loan will be handled under §1965.19 of this subpart.

§ 1965.16 Consent to junior liens.

As a general policy, FmHA or its successor agency under Public Law 103-354 borrowers will be discouraged from giving other creditors junior liens on real estate securing an FmHA or its successor agency under Public Law 103-354 loan. (For Sections 502 and 504 loans,

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see §1965.111 of Subpart C of Part 1965 of this chapter).

(a) *Processing request.* When consent to a junior lien is requested by a borrower, the County Supervisor may consent by executing Form FmHA or its successor agency under Public Law 103-354 465-1 or other form approved by OGC for use in the state provided:

(1) The terms of the junior lien debt are such that repayment is not likely to jeopardize payment of the FmHA or its successor agency under Public Law 103-354 loan;

(2) Operating plans made with the junior lienholder are consistent with plans made with FmHA or its successor agency under Public Law 103-354;

(3) Total debt against the security will not exceed its market value; and

(4) The junior lienholder agrees in writing not to foreclose the mortgage before a discussion with the County Supervisor and after giving a reasonable specified period of written notice to FmHA or its successor agency under Public Law 103-354.

(b) *Consent not requested or granted.* When a junior lien is placed on any property without FmHA or its successor agency under Public Law 103-354 consent and consent cannot be granted under this section, FmHA or its successor agency under Public Law 103-354 may continue with the loan as long as the borrower pays FmHA or its successor agency under Public Law 103-354 loans as agreed, maintains the security, and meets all other conditions of the loan. The existence of a junior lien cannot be treated as a default. The County Supervisor will continue to service the loan to protect the Government's security interest.

§ 1965.17 Lease of security.

(a) *General provisions.* When the County Supervisor learns that a borrower is leasing or intends to lease all or a portion of the security, the County Supervisor will ask the borrower for a copy of the lease, if it is written. If the borrower leases or proposes to lease the real estate security for a term of more