

§ 1965.3

(d) If the farm is situated in more than one State, county or parish, the loan will be serviced by the County Office servicing the county in which the borrower's residence is located. If the borrower is a corporation, cooperative, partnership or joint operation or if the borrower's residence is not on the farm, the loan will be serviced by the County Office servicing the county in which the farm or a major portion of the farm is located.

[51 FR 13482, Apr. 21, 1986, as amended at 58 FR 52654, Oct. 12, 1993]

§ 1965.3 Borrower's responsibilities.

Each borrower is responsible for repaying principal and interest on a timely basis pursuant to the loan documents, paying real estate taxes in accordance with subpart A of part 1925 of this chapter, providing adequate property insurance in accordance with subpart A of part 1806 of this chapter (FmHA or its successor agency under Public Law 103-354 Instruction 426.1), maintaining, protecting, and accounting to the FmHA or its successor agency under Public Law 103-354 for all real estate security, and complying with other loan requirements.

[51 FR 4140, Feb. 3, 1986, as amended at 57 FR 36592, Aug. 14, 1992]

§ 1965.4 FmHA or its successor agency under Public Law 103-354's responsibility.

The County Supervisor, District Director or other servicing official is responsible for informing borrowers of their responsibilities in connection with the loan, seeing that the security is being properly maintained and accounted for, and servicing the account and security in accordance with this subpart. When a borrower fails to maintain, protect, or account for the security, as required by the loan documents, or makes unauthorized disposition or use of any security, FmHA or its successor agency under Public Law 103-354 will institute prompt action to protect FmHA or its successor agency under Public Law 103-354's interest. The County Supervisor, District Director or other servicing official will obtain any needed legal advice from the Office of the General Counsel (OGC) through the State Director. Once a

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case has been referred to the OGC for legal action, no further action will be taken by the County Supervisor, District Director or other servicing official without prior clearance from OGC. If the case has been referred to the U.S. Attorney, clearance with the U.S. Attorney will be obtained through the OGC. All FmHA or its successor agency under Public Law 103-354 employees will document actions taken to service a loan in the running case record in the borrower's FmHA or its successor agency under Public Law 103-354 file(s). When a servicing action affects a borrower's account (e.g., a foreclosure action is pending), the appropriate FmHA or its successor agency under Public Law 103-354 servicing official will notify the Finance Office.

§ 1965.5 Servicing certain insured Farm Ownership (FO) loans.

(a) *Servicing actions.* When an insured FO mortgage running to the lender as mortgagee is not held by the FmHA or its successor agency under Public Law 103-354 under trust assignment, or declaration of trust, or in the insurance fund (called insured FO mortgage held by the lender in this subpart) and a written subordination or partial release or other servicing document is requested, the document will be executed by the holder on a form prepared or approved by OGC. In those cases, execution of the document will constitute consent.

(b) *Execution of documents.* The County Supervisor is authorized to execute on behalf of the Government, all necessary forms, satisfactions, releases, and other documents required to complete any transactions in this subpart after the transaction has been approved by the appropriate approving official. The documents will be executed on behalf of the United States in the following form:

(1) "United States of America," when the mortgage names the United States as mortgagee, or when a mortgage running to the lender is not under a trust or declaration of trust and the note is held by the insurance fund.

(2) "United States of America, for Itself and as Trustee," when an FO mortgage is held by the FmHA or its successor agency under Public Law 103-

354 under a trust assignment or declaration of trust, regardless of whether the note is held by a lender or by the insurance fund.

§ 1965.6 Consent of lienholders.

When this subpart requires the consent of other lienholders, consent will be obtained and furnished in writing to the FmHA or its successor agency under Public Law 103-354 by the borrower before the FmHA or its successor agency under Public Law 103-354 enters into a transaction which affects its security or its lien. This consent will, unless otherwise provided in a State Supplement, include an agreement as to the disposition of any funds involved in the transaction.

§ 1965.7 Definitions.

As used in this subpart, the following definitions apply:

(a) *Borrower*. When a loan is made to an individual, the individual is the borrower. When a loan is made to an entity, the cooperative, corporation, partnership, or joint operation is the borrower.

(b) *County Supervisor* also includes Assistant County Supervisor who has written delegated authority to carry out purposes of this subpart.

(c) *District Director* also includes Assistant District Director who has written delegated authority to carry out purposes of this subpart.

(d) *FmHA or its successor agency under Public Law 103-354 loans, FmHA or its successor agency under Public Law 103-354 accounts, FmHA or its successor agency under Public Law 103-354 interests, FmHA or its successor agency under Public Law 103-354 security, FmHA or its successor agency under Public Law 103-354 debts* and similar terms apply to indebtedness owed to, or insured by, the United States of America acting through the FmHA or its successor agency under Public Law 103-354, and to related security instruments.

(e) *Farmer Program loan* includes only Farm Ownership (FO), Operating (OL), Soil and Water (SW), Economic Emergency (EE), Emergency (EM), Recreation (RL), Economic Opportunity (EO), Softwood Timber (ST) and Special Livestock (SL) loans, and/or Rural

Housing Loans for farm service buildings (RHF).

(f) *Foreclosure sale*. The act of selling security either under the "Power of Sale" in the security instrument or through court proceedings.

(g) *Leasehold*. A right to use farm property for a specific period of time under conditions provided for a lease agreement.

(h) *Mortgage*. Any form of security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to any security interest in chattel property.

(i) *Non-Program (NP) Loan*. An NP loan results when credits are extended to ineligible applicants and/or transferees in connection with loan assumptions and sale of inventory properties.

(j) *Note* includes any note, bond, assumption agreement or other evidence of indebtedness.

(k) *Security*. Property of any kind subject to a real or personal property lien including, among other things, appurtenant rights of development, leasehold, grazing or other use privileges.

(l) *Servicing action* includes, among other things, the cash sale or transfer of real estate and chattel property and the assumption of loans.

[51 FR 4140, Feb. 3, 1986, as amended at 52 FR 26138, July 13, 1987; 53 FR 35794, Sept. 14, 1988]

§§ 1965.8-1965.10 [Reserved]

§ 1965.11 Preservation of security and protection of liens.

(a) *Inspection of security*. The County Supervisor will inspect farm real estate security a minimum of one time every 3 years for accounts that are current. More frequent inspections will be made when a borrower is delinquent or otherwise in default or when problems exist involving the security. If all or part of the security is located in another County Office area, the County Supervisor for that area may be requested to inspect the property. Security on non-farm tracts will be inspected when:

- (1) Liquidation action is likely to be taken;
- (2) The property has been abandoned;
- (3) Necessary to protect the interest of the Government; or