

§ 1717.902

funds are not forthcoming. Such evidence may include financial records demonstrating the availability of general funds, and/or a written commitment from the private lender to provide a loan for the remaining amount of financing required, with such commitment being conditioned upon the availability of a lien accommodation from RUS; and

(3) An authorized official of the borrower has requested early approval of the lien accommodation and explained the reasons therefor, and has certified that the funds are needed and will be drawn down before funds from the concurrent insured loan are expected to be available, assuming that the insured loan is approved.

(b) *Timeframe for RUS action.* (1) RUS will either approve or disapprove the lien accommodation within 90 days of receiving the borrower's request for early approval and the complete application for the concurrent RUS loan and required supplemental financing, in form and substance satisfactory to RUS, or notify the borrower in writing of the estimated date when a decision is expected. If an environmental assessment or an Environmental Impact Statement is required, additional time beyond the 90 days may be required to prepare these documents. RUS's approval of the lien accommodation will be conditioned upon execution and delivery by the borrower of a satisfactory security instrument, if required, and such additional information, documents, and opinions of counsel as RUS may require.

(2) If a mortgage or mortgage amendment is required, RUS will consult with the other mortgagees as to who will prepare the documents. Within 30 days of obtaining the documents satisfactory to RUS, including required execution counterparts, RUS will execute the documents and send them to the borrower, along with instructions pertaining to recording of the mortgage, an opinion of borrower's counsel, and other matters. RUS will promptly notify the borrower upon receiving satisfactory evidence that the borrower has complied with said instructions.

(c) *Approval of concurrent insured loan.* Early approval of a lien accommodation for a required supplemental

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loan does not ensure that the concurrent RUS insured loan will be approved. The request for the concurrent insured loan will be reviewed when funds are available to make the loan. The borrower may be requested to update certain supporting information in the loan application if substantial time has elapsed since the lien accommodation or subordination was approved.

§ 1717.902 Other RUS requirements.

Supplemental loans required by 7 CFR 1710.110 are subject to the same post-loan requirements as insured RUS loans regarding accepted materials, construction standards, contracting and procurement procedures, standard forms of contracts, RUS approval of the advance of loan funds, and other matters.

§ 1717.903 Liability.

It is the intent of this subpart that any failure on the part of RUS to comply with any provisions of this subpart, including without limitation, those provisions setting forth specified timeframes for action by RUS on applications for lien accommodations or lien subordinations, shall not give rise to liability of any kind on the part of the Government or any employees of the Government including, without limitation, liability for damages, fees, expenses or costs incurred by or on behalf of a borrower, private lender or any other party.

§ 1717.904 Exemptions pursuant to section 306E of the RE Act.

(a) *General policy.* If a borrower's net worth to RUS debt ratio exceeds 110 percent, as determined by RUS, and the borrower is in compliance with all requirements of its mortgage, loan agreement with RUS, and any other agreement with RUS that have not been exempted in writing by RUS, RUS will expeditiously approve a lien accommodation for a concurrent supplemental loan if requested in writing by the borrower, provided that the security, including assurance of repayment, of loans made or guaranteed by RUS will remain reasonably adequate. RUS's approval will be conditioned upon execution and delivery by the