

(iii) If OGC determines that FmHA or its successor agency under Public Law 103-354 holds a prior lien on the commodity and the amount due on its loan is not collectible from the borrower, send CCC a copy of the OGC memorandum with a complete statement of facts supporting the claim through the applicable ASCS office or notify CCC if the OGC memorandum does not support FmHA or its successor agency under Public Law 103-354's claim.

(2) The State Director will notify the County Supervisor promptly on receiving information from CCC that the borrower's loan is being called.

(3) If collection cannot be made from the borrower or other party (see paragraph 5 of Exhibit A of this Subpart), the State Director will give CCC the reasons, FmHA or its successor agency under Public Law 103-354 will then be paid by CCC through the applicable ASCS office.

§§ 1962.20-1952.25 [Reserved]

§ 1962.26 Correcting errors in security instruments.

The County Supervisor may use Form FMHA 462-12, to correct minor errors in a financing statement when the errors are not serious (i.e., a slightly misspelled name). OGC will be asked to determine whether or not such errors are in fact minor. The County Supervisor may also use Form FmHA or its successor agency under Public Law 103-354 462-12 to add chattel property to the financing statement (i.e., a new type or item of chattel or crops on land not previously described).

§ 1962.27 Termination or satisfaction of chattel security instruments.

(a) *Conditions.* The County Supervisor may terminate financing statements and satisfy chattel mortgages, chattel deeds of trust, assignments, severance agreements and other security instruments when:

(1) Payment in full of all debts secured by collateral covered by the security instruments has been received; or

(2) All security has been liquidated or released and the proceeds properly accounted for, including collection or settlement of all claims against third

party converters of security, even though the secured debts are not paid in full. This includes collection-only and debt settlement cases; or

(3) The U.S. Attorney has accepted a compromise offer in full settlement of the indebtedness and has asked that action be taken to satisfy or terminate such instruments; or

(4) FmHA or its successor agency under Public Law 103-354 has a financing statement or other lien instrument which describes the real estate upon which crops are located but neither the borrower nor FmHA or its successor agency under Public Law 103-354 has an interest in the crops because the borrower no longer occupies or farms the premises described in the lien instrument. Such action will only relate to the crops.

(b) *Form of payment.* (1) Security instruments may be satisfied or the financing statements may be terminated on receipt of final payment in currency, coin, U.S. Treasury check, cashier's or certified check, bank draft, postal or bank money order, or a check issued by a party known to be financially responsible.

(2) When the final payment is tendered in a form other than those mentioned above, the security instruments will not be satisfied until 15 days after the date of the final payment. However, in UCC States the termination statement will be signed and sent to the borrower within 10 days after receipt of the borrower's written request but not until the 10th day unless it previously has been ascertained that the payment check or other instrument has been paid by the bank on which it was drawn. (See subsection (c) of this section for the reason for the 10-day requirement.)

(c) *Filing or recording termination statements.* Financing statements will be terminated by use of Form FmHA or its successor agency under Public Law 103-354 462-12 if provided by a State supplement. (1) Under UCC provisions if FmHA or its successor agency under Public Law 103-354 fails to give a termination statement to the borrower within 10 days after written demand, it will be liable to the borrower for \$100 and, in addition, for any loss caused to the borrower by such failure unless

§ 1962.28

otherwise provided by a State supplement. In the absence of demand for a termination statement by the borrower, a termination statement will be delivered to the borrower when the notes have been paid in full.

(2) However, if FmHA or its successor agency under Public Law 103-354 has been meeting the borrower's annual operating credit needs in the past and expects to do so the next year, the financing statements need not be terminated in the absence of such demand unless a loan for the succeeding year will not be made or earlier termination is required by a State supplement.

(d) *Filing or recording satisfactions.* Satisfactions of chattel mortgages and similar instruments will be made on Form FmHA or its successor agency under Public Law 103-354 460-4, "Satisfaction," or other form approved by the State Director. The original of the satisfaction form will be delivered to the borrower for recording or filing and the copy will be retained in the borrower's case file. However, if the State supplement based on State law requires recording or filing by the mortgagee, a second copy will be prepared for the borrower and the original will be recorded or filed by the County Supervisor. When State statutes provide that satisfactions may be accomplished by marginal entry on the records of the recording office, or when Form FmHA or its successor agency under Public Law 103-354 460-4 is not legally sufficient because special circumstances require some other form of satisfaction, County Supervisors are authorized to make such satisfactions according to State supplements. In such cases, Form FmHA or its successor agency under Public Law 103-354 460-4 will not be prepared but a notation of the satisfaction will be made on the copy of Form FmHA or its successor agency under Public Law 103-354 451-1, "Acknowledgment of Cash Payment," or Form FmHA or its successor agency under Public Law 103-354 456-3, "Journal Voucher for Write-Off or Judgment," which will be retained in the borrower's case folder.

(e) *Satisfaction or termination of lien when old loans cannot be identified.* When a request is received for the satisfaction of a crop or chattel lien, or

7 CFR Ch. XVIII (1-1-08 Edition)

for the termination of a financing statement and the status of the account secured by the lien cannot be ascertained from County Office records, the County Supervisor will prepare a letter to the Finance Office reflecting all the pertinent information available in the County Office regarding the account. The letter will request the Finance Office to tell the County Supervisor whether the borrower is still indebted to FmHA or its successor agency under Public Law 103-354 and, if so, the status of the account. If the Finance Office reports to the County Supervisor that the account has been paid in full or otherwise satisfied or that there is no record of an indebtedness in the name of the borrower, the County Supervisor is authorized to issue a satisfaction of the security instruments on Form FmHA or its successor agency under Public Law 103-354 460-4 or other approved form or to effect the satisfaction by marginal release, or a termination on Form FmHA or its successor agency under Public Law 103-354 462-12 as appropriate.

§ 1962.28 [Reserved]

§ 1962.29 Payment of fees and insurance premiums.

(a) *Fees.* (1) Security instruments. Borrowers must pay statutory fees for filing or recording financing statements or other security instruments (including Form FmHA or its successor agency under Public Law 103-354 462-12, or other renewal statements) and any notary fees for executing these instruments. They also must pay costs of obtaining lien search reports needed in properly servicing security as outlined in this subpart. Whenever possible, borrowers should pay these fees directly to the officials giving the service. When cash is accepted by FmHA or its successor agency under Public Law 103-354 employees to pay these fees, Form FmHA or its successor agency under Public Law 103-354 440-12, "Acknowledgment of Payment for Recording, Lien Search and Releasing Fees," will be executed. If the borrower cannot pay the fees, or if there are fees referred to in paragraphs (a) (2) and (3) of this section that must be paid by FmHA or its successor agency under Public Law 103-