

§ 1962.1

EXHIBIT B TO SUBPART A—MEMORANDUM OF UNDERSTANDING AND BLANKET COMMODITY LIEN WAIVER

EXHIBIT C TO SUBPART A—MEMORANDUM OF UNDERSTANDING BETWEEN FARMERS HOME ADMINISTRATION OR ITS SUCCESSOR AGENCY UNDER PUBLIC LAW 103-354 AND COMMODITY CREDIT CORPORATION

EXHIBITS D TO SUBPART A—D-1 [RESERVED]

EXHIBIT E TO SUBPART A—RELEASING SECURITY SALES PROCEEDS AND DETERMINING “ESSENTIAL” FAMILY LIVING AND FARM OPERATING EXPENSES

EXHIBIT F TO SUBPART A [RESERVED]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

SOURCE: 50 FR 45783, Nov. 1, 1985, unless otherwise noted.

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.1 Purpose.

This subpart delegates authorities and gives procedures for servicing, care, and liquidation of Farmers Home Administration or its successor agency under Public Law 103-354 (FmHA or its successor agency under Public Law 103-354) chattel security, Economic Opportunity (EO) loan property, and note only loans. Security servicing for Non-program (NP) loans on farm property will be according to subpart J of part 1951 of this chapter. This subpart is inapplicable to Farm Service Agency, Farm Loan Programs.

[50 FR 45783, Nov. 1, 1985, as amended at 58 FR 52654, Oct. 12, 1993; 72 FR 64123, Nov. 15, 2007]

§ 1962.2 Policy.

Chattel security, EO property and note only loans will be serviced to accomplish the loan objectives and protect FmHA or its successor agency under Public Law 103-354's financial interest. To accomplish these objectives, security will be serviced in accordance with the security instruments and related agreements, including any authorized modifications, provided the borrower has reasonable prospects of accomplishing the loan objectives, properly maintains and accounts for the security, and otherwise satisfactorily meets the loan obligations including repayment.

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§ 1962.3 Authorities and responsibilities.

(a) *Redelegation of authority.* Authority will be redelegated to the maximum extent possible consistent with program requirements and available resources. The State Director, District Director and County Supervisor are authorized to redelegate, in writing, any authority delegated to them in this subpart to any employee determined by them to be qualified.

(b) *Responsibilities*—(1) *FmHA or its successor agency under Public Law 103-354 personnel.* The State Director, District Director and County Supervisor are responsible for carrying out the policies and procedures in this subpart.

(2) *Borrower.* The borrower is responsible for repaying the loans, maintaining, protecting, and accounting to FmHA or its successor agency under Public Law 103-354 for all chattel security, and complying with all other requirements specified in promissory notes, security instruments, and related documents.

(c) *Exception authority.* The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely affect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and on the recommendation of the appropriate program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

(d) *Farms in more than one jurisdiction.* If the farm is situated in more than one State, County, or Parish, the loan will be serviced by the County Office serving the County in which the borrower's residence is located. If the borrower is a corporation, cooperative, partnership or joint operation is the borrower's residence is not on the farm, the loan will be serviced by the

County Office serving the County in which the farm or a major portion of the farm is located.

[50 FR 45783, Nov. 1, 1985, as amended at 51 FR 13480, Apr. 21, 1986]

§ 1962.4 Definitions.

As used in this subpart, the following definitions apply:

Abandonment. Voluntary relinquishment by the borrower of control of security or EO property without providing for its care.

Acquired chattel property. Former security or EO property of which FmHA or its successor agency under Public Law 103-354 has become the owner (See § 1955.20 of *Subpart A of Part 1955* of this chapter).

Basic security. Consists of all equipment serving as security for FmHA or its successor agency under Public Law 103-354 loans. It also consists of real estate and all foundation herds and flocks, including replacements, which serve as a basis for the farming operation outlined in the Farm and Home Plan or yearly budget which serve as security for FmHA or its successor agency under Public Law 103-354 loans. With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are basic security unless the borrower has replacements that will keep numbers and production up to planned levels. However, if a borrower plans to make a significant reduction in his basic livestock herd or flocks, the animals or birds that are sold in making this reduction will be considered basic security.

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.

Chattel security. Chattel property which may consist of, but is not limited to, inventory; accounts; contract rights; general intangibles; crops; livestock; fish; farm, business, and recreational equipment; and supplies, and which is covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil action. Court proceedings to protect FmHA or its successor agency under Public Law 103-354's financial interests such as obtaining possession of property from borrowers or third parties, judgments on indebtedness evidenced by notes or other contracts or judgments for the value of converted property, or judicial foreclosure. Bankruptcy and similar proceedings to impound and distribute the bankrupt's assets to creditors and probate and similar proceedings to settle and distribute estates of incompetents or of decedents under a will, or otherwise, and pay claims of creditors are not included.

Criminal action. Prosecution by the United States to exact punishment in the form of fines or imprisonment for alleged violations of criminal statutes. These include but are not limited to violations such as:

Unauthorized sale of security.

Purchase of security with intent to defraud and without payment of the purchase price to FmHA or its successor agency under Public Law 103-354;

Falsification of assets or liabilities in loan applications;

Application for a loan for an authorized purpose with intent to use and use of loan funds for an unauthorized purpose;

Decision after obtaining a loan to use and using the funds for an unauthorized purpose and then making false statements regarding their use;

By scheme, trick, or other device, covering up or concealing misuse of funds or authorized dispositions of security or EO property or other illegal action; or

Any other false statements or representations relating to FmHA or its successor agency under Public Law 103-354 matters. To establish that a criminal act was committed by selling EO property, it is necessary to show that the borrower, at the time the loan agreement or the check on the supervised bank account was signed, intended to sell the property in violation of the loan agreement. The Federal criminal statute of limitations bars institution of criminal action 5 years after the date the act was committed. Unauthorized disposition of even minor