

consistent with the conditional commitment.

(10) There has been no adverse change in the borrower's situation since the conditional commitment was issued by RHS.

(11) All other requirements of the conditional commitment have been met.

(b) *Inspections.* The Lender will certify to RHS that inspections in accordance with §1980.341 have been completed.

(c) *Lender agreement.* There must be a valid lender agreement on file.

(d) *Lender file.* The Lender will maintain a file for each guaranteed RH loan containing originals or copies, as appropriate, of all documents pertaining to that loan.

§ 1980.361 Issuance of loan note guarantee.

(a) When the Lender has certified that all requirements have been met, delivered a completed Loan Closing Report, and paid the guarantee fee, the RHS approval official will concurrently execute the loan note guarantee. The original will be provided to the Lender and be attached to the note.

(b)-(c) [Reserved]

§ 1980.362 [Reserved]

§ 1980.363 Review of loan closing.

The Lender must provide RHS with documentation that all of the closing conditions have been met within 10 days of issuance of the loan note guarantee. The Lender is responsible for deficiencies regardless of whether RHS discovers them in the loan closing review and/or notifies the Lender at that time. RHS reviews do not constitute any waiver of fraud, misrepresentation, or failure of judgment by the Lender.

§§ 1980.364-1980.365 [Reserved]

§ 1980.366 Transfer and assumption.

(a) *General.* Lenders may, but are not required to, permit a transfer to an eligible applicant. A transfer and assumption must be approved by RHS in writing. Transfers without assumption are not authorized. Transfers and assumptions under this subpart are subject to the RHS guarantee fee.

(b) *Eligible transferee.* An eligible transferee is one who meets the eligibility requirements of this subpart and includes situations involving transfers of housing in an area that has ceased to be rural. Loans made and guaranteed under this subpart prior to March 29, 1989, may be transferred to an applicant meeting all eligibility requirements of this subpart except the applicant's adjusted annual income may exceed the maximum income for the area by not more than 10 percent.

(c) *Determinations by the Lender.* Before the transfer and assumption can be approved with the guarantee remaining in force, the Lender must determine that all of the following conditions can be met:

(1) The transferee is an eligible applicant.

(2) The transferee will assume the total remaining debt and acquire all of the property securing the guaranteed loan balance.

(3) The transfer and assumption would not be made without the continuation of the loan guarantee.

(4) The market value of the security being acquired by the transferee is at least equal to the secured indebtedness against it.

(5) The priority of the existing lien securing the guaranteed loan will be maintained or improved.

(6) Proper hazard insurance will be obtained.

(7) The transfer and assumption can be properly closed and the conveyance instruments will be filed, registered, or recorded, as appropriate.

(8) The transferor acknowledges continued liability for the debt in writing.

(d) *Changes in the promissory note or security instrument.* If the assumption will result in changes in the repayment schedule or the interest rate, the changes must be approved by the present debtors since they will remain liable for the debt. Any changes in rates and terms must not exceed rates and terms allowed for new loans under this subpart and cannot exceed the interest rate on the initial loan. The debt must not exceed the amount remaining due on the original loan. The term of the loan may cover a period of up to 30

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years from the date of transfer and assumption. The Lender's request for approval to RHS will be accompanied by:

(1) An explanation of the reasons for the proposed change in the rates and terms.

(2) A statement that the Lender's determinations required by paragraph (c) of this section can be made.

(e) *Release of liability.* The Lender may not release the transferor of liability.

(f) *Forms and case numbers.* The assumption may be made on the Lender's assumption agreement form. The assumption agreement must contain the RHS case numbers of the transferor and the transferee.

(g) *Lender's application to RHS.* The Lender must submit the items outlined in §1980.353(e) of this subpart to RHS, in addition to items required in this section.

(h) *Notations and notices.* The Lender must notify RHS whether the loan and security can be properly assumed and transferred. The Lender shall assure that the conveyance instruments are properly filed, registered, or recorded, as appropriate. Upon completion of the transfer and assumption, the Lender must provide RHS a copy of the transfer and assumption agreement. The Lender may present the loan note guarantee to RHS if it desires RHS to note the transfer and assumption on the loan note guarantee. If a new note is obtained, it will also be attached to the loan note guarantee.

(i) *Interest assistance.* The original borrower's Master Interest Assistance Agreement may be transferred to an eligible transferee. Equity sharing, if any, owed by the transferor must be determined and collected at the time the loan is assumed and title to the property is transferred. See §1980.391.

(j) *Closing the transfer and assumption.* As soon as the Lender has obtained RHS approval, the Lender may proceed with closing the transaction. The closing must include, but need not be limited to, the proper execution and delivery of the conveyance and assumption documents, compliance with any legal requirements, and actions necessary to perfect the transfer and the required lien priority.

(k) *Loan note guarantee.* The existing loan note guarantee will continue to be in effect. RHS will note the transfer and assumption on the original loan note guarantee by completing the Assumption Agreement block by inserting the name of the assuming party.

(1) *Material furnished to RHS after closing.* Immediately after closing, the Lender must furnish to RHS:

(1) A conformed copy of the executed assumption agreement.

(2) A statement showing:

(i) Any changes made in the provisions of the promissory note or security instruments.

(ii) That all conditions and requirements of paragraph (b) of this section have been met.

(iii) That the required insertions have been made per paragraph (h) of this section.

(m) *Notification of Lender.* The RHS approval official will review the proposed transfer and assumption and notify the Lender of the decision in writing. The request for transfer and assumption will be treated as an application for guaranteed loan assistance and will be handled in accordance with §1980.353. The Lender may proceed with the transfer and assumption upon obtaining RHS approval.

§ 1980.367 Unauthorized sale or transfer of the property.

RHS consent is required to continue with the RHS guarantee in the event of a sale or transfer of the property in accordance with §1980.366. If the property is transferred without RHS consent, the Lender must take one of the following actions:

(a) Obtain RHS consent if the conditions of §1980.366 can be met;

(b) Satisfy the RHS guarantee and continue with the loan without the loan note guarantee; or

(c) Notify the borrower and the transferee of the default and service the loan in accordance with §1980.371.