due diligence in completing the foreclosure process. Lenders are expected to complete foreclosure within the time frames that are reasonable for the state in which the property is located.

(b) Maximum collection. The Lender is expected to make the maximum collection possible on the indebtedness. The Lender will consider the possibility of recovery of any deficiency apart from the acquisition or sale of collateral. The Lender will submit a recommendation on such recovery considering the borrower’s assets and ability to pay, prospects of future recovery, the costs of pursuing such recovery, recommendation for obtaining a judgment, and the collectability of a judgment in view of the borrower’s assets.

(c) Allowable liquidation costs. Certain reasonable liquidation costs (costs similar to those charged for like services in the area) will be allowed during the liquidation process. No in-house expenses of the Lender will be allowed including, but not limited to, employee salaries, staff lawyers, travel, and overhead. Liquidation costs are deducted from the gross sales proceeds of the collateral when the Lender has conducted the liquidation.

(d) Servicing plan. The Lender must submit a servicing plan to RHS when the account is 90 days delinquent and a method other than foreclosure is recommended to resolve delinquency. RHS encourages Lenders and delinquent borrowers to explore an acceptable alternative to foreclosure to reduce loss and expenses of foreclosure. Although prior approval is not required in all cases, the Agency may reject a plan that does not protect the Government’s interest.

(1) Continuation with the borrower. The Lender may continue with the borrower when a clear and realistic plan to eliminate the delinquency is presented. The Lender must fully document the borrower’s prospects of success and make this information available to RHS upon request.

(2) Voluntary liquidation. RHS may accept the Lender’s plan to use voluntary liquidation when the plan clearly addresses the responsibilities of the parties, the Lender maintains oversight of the progress of the sale, the property is listed for sale at a price in line with its market value (if there is not already a bona fide purchaser for the dwelling), and the expected cost to the Government is the same as or less than the cost of foreclosure.

(3) Deed-in-lieu of foreclosure. The Lender may take a deed-in-lieu of foreclosure from the borrower when it will not result in a cost to the Government in excess of that expected for foreclosure.

(4) Other methods. RHS may accept a proposal submitted by the Lender that is not specifically addressed in but is consistent with the provisions of this subpart if the Lender fully documents how the proposal will result in a savings to the Government.

(e) Handling shared equity. Interest assistance payments made under §1980.390 of this subpart will not be subject to shared equity if the loan is liquidated in accordance with the Lender Agreement unless:

(1) The property is sold at or prior to foreclosure for an amount exceeding the Lender’s unpaid balance and costs of foreclosure, or

(2) A junior lienholder takes over the Lender’s loan.

§ 1980.375 Reinstatement of the borrower’s account.

The Lender may reinstate an account when all delinquent payments and any funds that were advanced to pay authorized expenses are paid or as required under state law. When the Lender wishes to consider other offers by the borrower to bring the account current, the Lender must obtain RHS concurrence.

§ 1980.376 Loss payments.

Settlement of the guarantee will be processed in accordance with this section.

(a) Loss payment. Loss payments will be made within 60 days of the Lender’s properly filed claim. The Lender must submit its loss claim within 30 calendar days of loan liquidation. The claim may include interest on the unpaid principal accrued to final loss settlement. RHS will pay interest within the limits of the guarantee to the date the claim is paid when the Lender promptly and properly files the claim.
§ 1980.376

(1) **Determination of loss payment.** To calculate the loss payment, first determine the unpaid debt by adding the unpaid principal and interest on the loan and the unpaid balance for principal and interest on authorized protective advances. The net proceeds from the property will be first applied to the unpaid debt. Any other proceeds recovered by the Lender from other sources shall also be applied to the total unpaid debt. Determination of net proceeds will be different depending on which of the following circumstances are involved.

(i) If, at liquidation, title to the property is conveyed to a bona fide third-party purchaser, then final loss payment will be based on the net sales proceeds received for the property.

(ii) If, at liquidation, title to the property is conveyed to the Lender, then the Lender must prepare and submit a property disposition plan to RHS for RHS concurrence. The plan will address the Lender's proposed method for sale of the property, the estimated value and minimum sale price, itemized estimated costs of the sale, and any other information that could impact the amount of loss on the loan. The Lender is allowed up to 6 months from the date the property is acquired to sell the property. Upon the Lender's written request, RHS will authorize one extension not to exceed 30 days to close the sale of a purchase offer accepted near the end of the 6-month period. Net proceeds will be based on the net proceeds received for the property when the sale is conducted in accordance with the plan as approved by RHS. If no sale offer is accepted within the 6-month period, then the RHS approval official will obtain and use a liquidation value appraisal of the property. When an appraisal is obtained, the amount of the net proceeds from the security is then determined by subtracting a cost factor, which is found in exhibit D of FmHA Instruction 1980–D (available in any RHS office), from the current market value.

(iii) If a deficiency judgment is obtained, the Lender must enforce the judgment against the borrower before loss settlement if the current situation provides a reasonable prospect of recovery. A loss payment will be made when the Lender holds a deficiency judgment but there are not current prospects of collection, even if there may be in the future.

(2) **Payment procedure.** RHS will pay losses on the loan according to the terms of the loan note guarantee unless RHS has determined there is cause for reduction of the loss amount. See §1980.377 for future recovery by the Lender.

(i) If there is no dispute between RHS and the Lender regarding the amount of the loss and the Lender's eligibility for payment of loss, RHS will pay the loss within the limits of the guarantee.

(ii) If RHS and the Lender do not agree on the amount of the loss, or RHS has determined that part of the loss is not payable to the Lender under the terms of the loan note guarantee, RHS will pay the undisputed portion. The disputed portion of the claim will be treated as an adverse decision and the Lender may appeal.

(iii) When RHS has cause to believe that Lender fraud or other lender actions negating the guarantee exist, no loss payment may be made unless the situation is resolved.

(3) **The RHS approval official will conduct an audit of the account and review the loan in its entirety to determine why the loan failed and whether any reason exists for reducing or denying the loss claim. This information will be documented in the RHS casefile.**

(iv) If a Lender’s loss claim is denied or reduced, the RHS approval official will notify the Lender of all of the reasons for the action within 10 days of the decision and the Lender may appeal in accordance with §1980.399 and subpart B of part 1900.

(v) The RHS approval official is authorized to approve loss payments in amounts of up to 50 percent of his/her delegated loan approval authority in accordance with exhibit D of FmHA Instruction 1901–A (available in any RHS office).

(b) **Denial or reduction of loss claims.** The RHS approval official will fully document any loss claim which is denied or reduced including an analysis of how the amount of the reduction was determined. A connection must be made between the Lender’s action or
failure to act and the loss amount on
the loan. The amount of loss oc-
casioned by such action will be estab-
lished. This information will be made
available to the Lender upon request. A
Lender’s loss claim may be denied or
reduced by RHS when:
(1) The Lender has committed fraud.
(Denial of claim.)
(2) The Lender claims items not au-
thorized under RHS regulations. (Red-
duced by amount of unauthorized
claim.)
(3) The Lender violated usury laws.
(Reduction for amount of loss caused
by the violation.)
(4) The Lender failed to obtain re-
quired security or maintain the secu-
ritv position. (Reduction for loss at-
tributed to failure.)
(5) Loan funds were used for unau-
thorized purposes. (Reduction by unau-
thorized amount.)
(6) The Lender was negligent in loan
servicing. Negligent servicing is a fail-
ure to perform those services which a
reasonably prudent Lender would per-
form in servicing its own portfolio of
loans that are not guaranteed. The
term includes a failure to act, a failure
to act in a timely manner, or acting in
a manner contrary to that in which a
reasonably prudent Lender would act.
(Reduction for loss amount attrib-
utable to Lender negligence.) Examples
of negligent servicing include:
(i) A failure to contact the borrower
in a timely manner when the bor-
rower’s account goes into default.
(iv) A failure to request loan subsidy
when the borrower was eligible for loan
subsidy and loan subsidy was available
(subsidized loans only).
(v) A failure to protect security dur-
ing the liquidation phase.
(7) The Lender delayed filing the loss
claim. (Reduction in claim for interest
accrued because the claim was not
filed.)
The proceeds of any amounts recov-
ered shall be shared in proportion to
the amount of loss borne between RHS
and the Lender. Although the Lender’s
actual loss may be different than the
amount on which loss settlement was
based, the proportion of recovery shar-
ing must be based on the loss percent-
age upon which the loss payment cal-
culation was based.
§ 1980.390 Interest assistance.
In order to assist low-income bor-
rowers in the repayment of the loan,
RHS is authorized to provide interest
assistance payments subject to the
availability of funds. Regardless of
what date a borrower’s loan payment is
due each month, interest assistance
payments will be made by RHS directly
to the Lender on or before the 15th day
of the month in which the borrower’s
payment is due.
(a) Policy. It is the policy of RHS to
grant interest assistance on guaran-
teed loans to low-income borrowers to
assist them in obtaining and retaining
decent, safe, and sanitary dwellings
and related facilities as long as the
borrower remains eligible for payments
when funds are available for interest
assistance. Interest assistance must be
established for the borrower at the
time the loan guarantee is authorized.
(b) Processing interest assistance agree-
ments. The Lender will process the in-
terest assistance agreement and sub-
mit it to RHS for approval.
(i) RHS will reimburse the Lender in
the amounts authorized in exhibit D of
FmHA Instruction 1980–D (available in
any RHS office) for the cost of proc-
sessing the agreement. The fee will be
paid upon receipt of a valid agreement
which has been coded as requiring a
processing fee payment. The processing
fee is payable when:
(i) A new agreement is made with the
borrower except at the time of loan
closing.
(ii) The borrower had an agreement
for the previous year and a new agree-
ment is made for the current year.
(iii) The borrower is eligible for but
not presently on interest assistance
and enters into a new interest assist-
ance agreement.
(iv) The borrower has a change in cir-
cumstances which requires a revision
to the current agreement. When the