

§ 3550.206

7 CFR Ch. XXXV (1-1-10 Edition)

§ 3550.206 Protective advances.

RHS may pay for fees or services and charge the cost against the borrower's account to protect the Government's interest.

(a) *Advances for taxes and insurance.* RHS may advance funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs, as well as amounts needed to fund the current escrow cycle.

(b) *Advances for costs other than taxes and insurance.* Protective advances for costs other than taxes and insurance, such as emergency repairs, will be made only if the borrower cannot obtain a subsequent loan.

(c) *Repayment arrangements.* (1) Advances for borrowers with multiple loans will be charged against the largest loan.

(2) Amounts advanced will be due with the next scheduled payment. RHS may schedule repayment consistent with the borrowers ability to repay or reamortize the loan.

(3) Advances will bear interest at the promissory note rate of the loan to which the advance was charged.

§ 3550.207 Payment moratorium.

RHS may defer a borrowers scheduled payments for up to 2 years. NP borrowers are not eligible for a payment moratorium.

(a) *Borrower eligibility.* For a borrower to be eligible for a moratorium, all of the following conditions must be met:

(1) Due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making scheduled payments because:

(i) The borrower's repayment income fell by at least 20 percent within the past 12 months;

(ii) The borrower must pay unexpected and unreimbursed expenses resulting from the illness, injury, or death of the borrower or a family member; or

(iii) The borrower must pay unexpected and unreimbursed expenses resulting from damage to the security property in cases where adequate hazard insurance was not available or was prohibitively expensive.

(2) The borrower occupies the dwelling, unless RHS determines that it is uninhabitable.

(3) The borrower's account is not currently accelerated.

(b) *Reviews of borrower eligibility.* (1) Periodically RHS may require the borrower to submit financial information to demonstrate that the moratorium should be continued. The moratorium may be canceled if:

(i) The borrower does not respond to a request for financial information;

(ii) RHS receives information indicating that the moratorium is no longer required; or

(iii) In the case of a moratorium granted to pay unexpected or unreimbursed expenses, the borrower cannot show that an amount at least equal to the deferred payments has been applied toward the expenses.

(2) At least 30 days before the moratorium is scheduled to expire, RHS will require the borrower to provide financial information needed to determine whether the borrower is able to resume making scheduled payments.

(c) *Resumption of scheduled payments.* When the borrower is able to resume scheduled payments, the loan will be reamortized to include the amount deferred during the moratorium and the borrower will be required to escrow. If the new monthly payment, after consideration of the maximum amount of payment subsidy available to the borrower, exceeds the borrower's repayment ability, all or part of the interest that has accrued during the moratorium may be forgiven.

(d) *Borrowers unable to resume scheduled payments.* If even after all appropriate servicing actions have been taken the borrower is unable to resume making scheduled payments after 2 consecutive years of being on a moratorium, the account will be liquidated.

§ 3550.208 Reamortization using promissory note interest rate.

Reamortization using the promissory note interest rate may be authorized when RHS determines that reamortization is required to enable the borrower to meet scheduled obligations, and only if the Government's lien priority is not adversely affected.

(a) *Permitted uses.* Reamortization at the promissory note interest rate may be used to accomplish a variety of servicing actions, including to:

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(1) Repay unauthorized assistance due to inaccurate information.

(2) Repay principal and interest accrued and advances made during a moratorium.

(3) Bring current an account under a delinquency workout agreement after the borrower has demonstrated the willingness and ability to meet the terms of the loan and delinquency workout agreement and reamortization is in the borrower's and Government's best interests.

(4) Bring a delinquent account current in the case of an assumption where the due on sale clause is not triggered as described in § 3550.163(c).

(5) Cover the remaining debt when a portion of the security property is being transferred but the acquisition price does not cover the outstanding debt. The remaining balance will be reamortized for a period not to exceed 10 years or the final due date of the note being reamortized, whichever is sooner.

(6) Bring an account current where the National Appeals Division (NAD) reverses an adverse action, the borrower has adequate repayment ability, and RHS determines the reamortization is in the best interests of the Government and the borrower.

(b) *Payment term of reamortized loan.* Except as noted in paragraph (a)(5) of this section, the term of the reamortized loan may be extended to the maximum term for which the borrower was eligible at the time the loan was originally made, less the number of years the loan has been outstanding. In all cases, the term must not exceed the remaining security life of the property.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78332, Dec. 24, 2002]

§ 3550.209 [Reserved]

§ 3550.210 Offsets.

Any money that is or may become payable from the United States to an RHS borrower may be subject to administrative, salary, or Internal Revenue Service (IRS) offsets for the collection of a debt owed to RHS.

(a) *IRS offset.* RHS may take action to effect offset of claims due RHS against tax refunds due to RHS debtors under 31 U.S.C. 3720a and 31 CFR 285.2.

(b) *Salary offset.* Offset of claims due to RHS may be collected pursuant to the salary offset provisions in 7 CFR part 3, subpart C for a federal employee or other persons covered in that subpart.

(c) *Administrative offset.* RHS may take action to effect administrative offset to recover delinquent claims due to it in accordance with the procedures in 7 CFR part 3, subpart B.

(d) *Offset by other federal agencies.* Escrow funds and loan and grant funds held or payable by RHS are not subject to offset by other federal agencies.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 69672, Nov. 19, 2002]

§ 3550.211 Liquidation.

(a) *Policy.* When RHS determines that a borrower is unable or unwilling to meet loan obligations, RHS may accelerate the loan and, if necessary, acquire the security property. The borrower is responsible for all expenses associated with liquidation and acquisition. If the account is satisfied in full, the borrower will be released from liability. If the account is not satisfied in full, RHS may pursue any deficiency unless the borrower received a moratorium at any time during the life of the loan and faithfully tried to repay the loan.

(b) *Tribal allotted or trust land.* Liquidations involving a security interest in tribal allotted or trust land shall only be pursued after offering to transfer the account to an eligible tribal member, the tribe, or the Indian Housing Authority. Forced liquidation of RHS security interests in Indian trust lands or on tribal allotted land will be recommended only after the State Director has determined it is in the best interest of the Government.

(c) *Acceleration and foreclosure.* If RHS determines that foreclosure is in the best interest of the Government, RHS will send an acceleration notice to each borrower and any cosigner.

(d) *Voluntary liquidation.* Borrowers may voluntarily liquidate through:

(1) *Refinancing or sale.* The borrower may refinance or sell the security property for at least net recovery value and apply the proceeds to the account.

(2) *Deed in lieu of foreclosure.* RHS may accept a deed in lieu of foreclosure