

approval of the investment under 7 CFR part 1717, subpart N.

(e) *Requirements and controls not exempted.* All requirements and limitations imposed with respect to lien accommodations and subordinations by this subpart R that are not specifically exempted by this section are not exempted and shall continue to apply according to their terms.

[59 FR 3986, Jan. 28, 1994, as amended at 60 FR 3735, Jan. 19, 1995; 60 FR 67410, Dec. 29, 1995]

§§ 1717.861–1717.899 [Reserved]

Subpart S—Lien Accommodations for Supplemental Financing Required by 7 CFR 1710.110

SOURCE: 58 FR 53851, Oct. 19, 1993, unless otherwise noted.

§ 1717.900 Qualification requirements.

Applications for a lien accommodation for supplemental financing required by 7 CFR 1710.110 must meet the same requirements as an RUS insured loan. The justification and documentation materials submitted as part of the borrower's application for an insured loan also serve as the justification and documentation of the request for a lien accommodation for the required supplemental loan. Unless early approval under § 1717.901 is requested by a borrower, these applications will be processed during the same time as RUS's review of the borrower's application for the concurrent insured loan.

§ 1717.901 Early approval.

(a) *Conditions.* If requested by a borrower in writing, RUS will review the application for a lien accommodation for required supplemental financing early in the process, before funding is available for the concurrent RUS insured loan, and approve the lien accommodation if the following conditions are met:

(1) The required supplemental loan meets the requirements for an insured loan, as set forth in 7 CFR part 1710, subparts A through G, and other RUS regulations pertaining to required supplemental loans;

(2) The borrower has demonstrated the ability to obtain the funds that would be needed to complete other portions of the project, if the portion to be constructed with private loan funds could not be used productively without completion of such other portions, in the event concurrent RUS insured loan funds are not forthcoming. Such evidence may include financial records demonstrating the availability of general funds, and/or a written commitment from the private lender to provide a loan for the remaining amount of financing required, with such commitment being conditioned upon the availability of a lien accommodation from RUS; and

(3) An authorized official of the borrower has requested early approval of the lien accommodation and explained the reasons therefor, and has certified that the funds are needed and will be drawn down before funds from the concurrent insured loan are expected to be available, assuming that the insured loan is approved.

(b) *Timeframe for RUS action.* (1) RUS will either approve or disapprove the lien accommodation within 90 days of receiving the borrower's request for early approval and the complete application for the concurrent RUS loan and required supplemental financing, in form and substance satisfactory to RUS, or notify the borrower in writing of the estimated date when a decision is expected. If an environmental assessment or an Environmental Impact Statement is required, additional time beyond the 90 days may be required to prepare these documents. RUS's approval of the lien accommodation will be conditioned upon execution and delivery by the borrower of a satisfactory security instrument, if required, and such additional information, documents, and opinions of counsel as RUS may require.

(2) If a mortgage or mortgage amendment is required, RUS will consult with the other mortgagees as to who will prepare the documents. Within 30 days of obtaining the documents satisfactory to RUS, including required execution counterparts, RUS will execute the documents and send them to the borrower, along with instructions pertaining to recording of the mortgage,

§ 1717.902

an opinion of borrower's counsel, and other matters. RUS will promptly notify the borrower upon receiving satisfactory evidence that the borrower has complied with said instructions.

(c) *Approval of concurrent insured loan.* Early approval of a lien accommodation for a required supplemental loan does not ensure that the concurrent RUS insured loan will be approved. The request for the concurrent insured loan will be reviewed when funds are available to make the loan. The borrower may be requested to update certain supporting information in the loan application if substantial time has elapsed since the lien accommodation or subordination was approved.

§ 1717.902 Other RUS requirements.

Supplemental loans required by 7 CFR 1710.110 are subject to the same post-loan requirements as insured RUS loans regarding accepted materials, construction standards, contracting and procurement procedures, standard forms of contracts, RUS approval of the advance of loan funds, and other matters.

§ 1717.903 Liability.

It is the intent of this subpart that any failure on the part of RUS to comply with any provisions of this subpart, including without limitation, those provisions setting forth specified timeframes for action by RUS on applications for lien accommodations or lien subordinations, shall not give rise to liability of any kind on the part of the Government or any employees of the Government including, without limitation, liability for damages, fees, expenses or costs incurred by or on behalf of a borrower, private lender or any other party.

§ 1717.904 Exemptions pursuant to section 306E of the RE Act.

(a) *General policy.* If a borrower's net worth to RUS debt ratio exceeds 110 percent, as determined by RUS, and the borrower is in compliance with all requirements of its mortgage, loan agreement with RUS, and any other agreement with RUS that have not been exempted in writing by RUS, RUS will expeditiously approve a lien accommodation for a concurrent supple-

7 CFR Ch. XVII (1-1-11 Edition)

mental loan if requested in writing by the borrower, provided that the security, including assurance of repayment, of loans made or guaranteed by RUS will remain reasonably adequate. RUS's approval will be conditioned upon execution and delivery by the borrower of a security instrument satisfactory to RUS, if required, and such additional information, documents, and opinions of counsel as RUS may require.

(b) *Determination of net worth to RUS debt ratio.* A borrower's ratio of net worth to RUS debt will be determined as set forth in §1717.860(b).

(c) *Procedures.* If a borrower meets the requirements of this section, upon receipt of a complete application RUS will promptly notify the borrower and lender in writing that the lien accommodation has been approved subject to the conditions set forth in paragraph (a) of this section.

[59 FR 3987, Jan. 28, 1994, as amended at 67 FR 70153, Nov. 21, 2002]

§§ 1717.905-1717.949 [Reserved]

Subpart T [Reserved]

§§ 1717.950-1717.999 [Reserved]

Subpart U [Reserved]

§§ 1717.1000-1717.1049 [Reserved]

Subpart V [Reserved]

§§ 1717.1050-1717.1099 [Reserved]

Subpart W [Reserved]

§§ 1717.1100-1717.1149 [Reserved]

Subpart X [Reserved]

§§ 1717.1150-1717.1199 [Reserved]

Subpart Y—Settlement of Debt

SOURCE: 62 FR 50491, Sept. 26, 1997, unless otherwise noted.

§ 1717.1200 Purpose and scope.

(a) Section 331(b) of the Consolidated Farm and Rural Development Act (Con Act), as amended on April 4, 1996 by Public Law 104-127, 110 Stat. 888 (7