

Rural Business-Cooperative Service that has the delegated authority to administer the loan or grant program that covers the property or the proceeds from the sale of property proposed to be used in another way.

(c) If the new use of the property is under the authority of another Administrator, the other Administrator will be consulted on whether the new use will meet the criteria of the other program. Since the new project or activity must be carried out in the same area as the original project or activity, a new rural area determination will not be necessary.

(d) Borrowers and grantees that wish to take advantage of this option may make their request through the appropriate Rural Development State Office. Permission to use this option will be exercised on a case-by-case-basis on applications submitted through the State Office to the Administrator for consideration. If the proposal is approved, the Administrator will issue a memorandum to the State Director outlining the conditions necessary to complete the transaction.

[72 FR 55018, Sept. 28, 2007]

§ 1951.219 [Reserved]

§ 1951.220 General servicing actions.

(a) *Payment in full.* Payment in full of a loan is handled according to subpart D of part 1951 of this chapter. When a loan is paid in full, the servicing official will:

(1) Notify the company providing fidelity bond coverage in writing that the government no longer has an interest in the bond if the government is named co-obligee on the bond.

(2) Release Rural Development's interest in insurance policies according to applicable provisions of subpart A of part 1806 (RD Instruction 426.1).

(3) Release Rural Development's interest in any other security as appropriate, consulting with OGC if necessary.

(b) *Loan summary statements.* Upon request of a borrower, Rural Development will issue a loan summary statement showing account activity for each loan made or insured under the CONACT. Field offices will post a notice on the bulletin board informing

borrowers of the availability of loan summary statements. See exhibit A of subpart A of this part for a sample of the required notice.

(1) The loan summary statement period is from January 1 through December 31. The Finance Office forwards to field offices a copy of Form RD 1951-9, "Annual Statement of Loan Account," to be retained in borrower files as a permanent record of account activity for the year.

(2) Quarterly Form RD 1951-9 are retained in the Finance Office on microfiche. These statements reflect cumulative data from the beginning of the current year through the end of the most recent quarter. Servicing offices may request copies of these quarterly or annual statements by sending Form RD 1951-57, "Request for Loan Summary Statement," to the Finance Office.

(3) The servicing office will provide a copy of the applicable loan summary statement to the borrower on request. A copy of Form RD 1951-9 and, for loans with unamortized installments, a printout of future installments owed obtained using the borrower status screen option in the Automated Discrepancy Processing System (ADPS), will constitute the loan summary statement to be provided to the borrower.

(c) *Insurance.* Rural Development borrowers shall maintain insurance coverage as follows:

(1) Community and Insured Business Programs borrowers shall continuously maintain adequate insurance coverage as required by the loan agreement and §1942.17(j)(3) of subpart A of part 1942 of this chapter. Insurance coverage must be monitored in accordance with the above-referenced section to determine that adequate policies and bonds are in force.

(2) For all other types of loans covered by this subpart, property insurance will be serviced according to subpart A of part 1806 of this chapter (RD Instruction 426.1) in real estate mortgage cases, and according to the loan agreement in other cases.

(d) *Property taxes.* Real property taxes are serviced according to Subpart A of part 1925 of this chapter. If State statutes permit a personal property tax

lien to have priority over Rural Development's lien, such taxes are serviced according to §§1925.3 and 1925.4 of subpart A of part 1925 of this chapter.

(e) *Changes in borrower's legal organization.* (1) The State Director may approve, with OGC's concurrence, changes in a recipient's legal organization, including revisions of articles of incorporation or charter and bylaws, when:

- (i) The change does not provide for a sole member type of organization;
- (ii) The borrower retains control over its assets and the operation, management, and maintenance of the facility, and continues to carry out its responsibilities as set forth in §1942.17(b)(4) of subpart A of part 1942 of this chapter; and
- (iii) The borrower retains significant local ties with the rural community.

(2) The State Director may approve, with prior concurrence of the Administrator, changes in a recipient's legal organization which result in a sole member type of organization, or any other change which results in a recipient's loss of control over its assets and/or the operation, management and maintenance of the facility, provided all of the following have been or will be met:

- (i) The change is in the best interest of the Government;
- (ii) The State Director determines and documents that other servicing options under this subpart, such as sale or transfer and assumption, have been explored and are not feasible;
- (iii) The loan is classified as a non-program loan;
- (iv) The borrower is notified that it is no longer eligible for any program benefits, but will remain responsible under the loan agreement; and
- (v) Prior concurrence of the Administrator is obtained. Requests will be forwarded to the Administrator: Attention (appropriate program division), and will include the case file; Exhibit A of this subpart (available in any Rural Development office), appropriately completed; the proposed changes; OGC comments; and any other necessary supporting information.

(f) *Membership liability.* As a loan approval requirement, some borrowers may have special agreements with

members of the purchase of shares of stock or for payment of a pro rata share of the loan in the event of default, or they may have authority in their corporate instruments to make special assessments in that event. Such agreements may be referred to as individual liability agreements and may be assigned to and held by Rural Development as additional security. In other cases the borrower's note may be endorsed by individuals. The liability instruments will be serviced in a manner indicated by their contents and the advice of OGC to adequately protect Rural Development's interest. Servicing actions necessary due to such provisions will be tracked in the Multi-Family Housing Information System (MFIS).

(g) *Other security.* Other security such as collateral assignments, water stock certificates, notices of lienholder interest (Bureau of Land Management grazing permits) and waivers of grazing privileges (Forest Service grazing permits) will be serviced to protect the interest of Rural Development and in compliance with any special servicing actions developed by the State Director with OGC assistance. Evidence of the security will be filed in the servicing office case file. Necessary servicing actions will be noted in MFIS.

(h) *Correcting errors in security instruments.* Land, buildings, or chattels included in a mortgage through mutual mistake may be released from the mortgage by the State Director when substantiated by the factual situation. The release is contingent on the State Director determining, with OGC advice, that the property was included due to mutual error.

(i) *Present market value determination.* For purposes of this subpart, the value of security is determined by the approval official as follows:

(1) *Security representing a relatively small portion of the total value of the security property.* The approval official will determine that the real estate and chattels are disposed of at a reasonable price. A current appraisal report may be required.

(2) *Security representing a relatively large portion of the total value of the security property.* The approval official will require a current appraisal report,

and the sale prices of the real estate and chattels disposed of will at least equal the present market value as determined by this appraisal.

(3) *Appraisal report.* If required, a current appraisal report will be completed in accordance with §1942.3 of subpart A of part 1942 of this chapter. The appraisal will be completed by a qualified Rural Development employee or an independent appraiser as determined appropriate by the approval official.

[55 FR 4399, Feb. 8, 1990, as amended at 57 FR 775, Jan. 9, 1992; 57 FR 21199, May 19, 1992; 57 FR 36591, Aug. 14, 1992; 69 FR 69105, Nov. 26, 2004]

§ 1951.221 Collections, payments and refunds.

Payments and refunds are handled in accordance with the following:

(a) *Community and Insured Business Programs.* (1) Field offices can obtain data on principal installments due for Community and Insured Business Programs loans with unamortized installments using the borrower status screen option in the ADPS.

(2) Regular payments for Community and Insured Business Programs borrowers are all payments other than extra payments and refunds. Such payments are usually derived from facility revenues, and do not include proceeds from the sale of security. They also include payments derived from sources which do not decrease the value of Rural Development's security.

(i) Distribution of such payments is made as follows:

(A) First, to the Rural Development loan(s) in proportion to the delinquency existing on each. Any excess will be distributed in accordance with paragraphs (a)(2)(i) (B) and (C) of this section.

(B) Second, to the Rural Development loan or loans in proportion to the approximate amounts due on each. Any excess will be distributed according to paragraph (a)(2)(i)(C) of this section.

(C) Third, as advance payments on Rural Development loans. In making such distributions, consider the principal balance outstanding on each loan, the security position of the liens securing each loan, the borrower's request, and related circumstances.

(ii) Unless otherwise established by the debt instrument, regular payments will be applied as follows:

(A) For amortized loans, first to interest accrued (as of the date of receipt of the payment), and then to principal.

(B) For principal-plus-interest loans, first to the interest due through the date of the next scheduled installment of principal and interest and then to principal due, with any balance applied to the next scheduled principal installment.

(3) Extra payments are derived from sale of basic chattel or real estate security; refund of unused loan funds; cash proceeds of property insurance as provided in §1806.5(b) of subpart A of part 1806 (paragraph V B of RD Instruction 426.1); and similar actions which reduce the value of basic security. At the option of the borrower, regular facility revenue may also be used as extra payments when regular payments are current. Unless otherwise established in the note or bond, extra payments will be distributed and applied as follows:

(i) First to the account secured by the lowest priority of lien on the property from which the extra payment was obtained. Any balance will be applied to other Rural Development loans in ascending order of priority.

(ii) For amortized loans, first to interest accrued to the date payment is received, and then to principal. For debt instruments with installments of principal plus interest, such payments will be applied to the final unpaid principal installment.

(b) *Soil and Water Conservation Loans.* (1) Regular payments for such loans are defined in §1951.8(a) of subpart A of part 1951 of this chapter, and are distributed according to §1951.9(a) of that subpart unless otherwise established by the note or bond.

(2) Extra payments are defined in §1951.8(b) of subpart A of part 1951 of this chapter, and are distributed according to §1951.9(b) of that subpart.

[55 FR 4399, Feb. 8, 1990, as amended at 66 FR 1569, Jan. 9, 2001; 68 FR 61331, Oct. 28, 2003; 68 FR 69952, Dec. 16, 2003]

§ 1951.222 Subordination of security.

When a borrower requests Rural Development to subordinate a security instrument so that another creditor or