

(c) *Refunds.* Refunds are payments derived from the return of unused loan or grant funds, except that the term "refunds" as used in Form 1940-17, "Promissory Note," will be construed to mean the return of funds advanced for capital goods, when a loan is made for operating purposes.

[50 FR 45764, Nov. 1, 1985, as amended at 51 FR 4137, Feb. 3, 1986; 53 FR 35717, Sept. 14, 1988; 58 FR 52646, Oct. 12, 1993]

§ 1951.9 Distribution of payments when a borrower owes more than one type of Agency loan.

"Distribution" means dividing a payment into parts according to the rules set out in this section. This section only applies after the County Supervisor determines the amount of proceeds that will be released for other purposes in accordance with the annual plan (Form RD 431-2, "Farm and Home Plan") and Form RD 1962-1, "Agreement for the Use of Proceeds/Release of Chattel Security."

(a) *Distribution of regular payments.* (1) When a borrower owes more than one type of Agency loan, regular payments received from *each crop year's income* will be distributed in accordance with the following priorities:

(i) *First*, to an amount equal to any advances made by RD for the crop year's living and operating expenses. If no advances were made, distribute the payment according to paragraph (a)(1)(ii) of this section. If the amount of the payment was greater than the amount of any advances, the excess should be distributed according to paragraph (a)(1)(ii) of this section.

(ii) *Second*, to Agency loans in proportion to the approximate amounts due on each for the year. In determining the amounts due for the year, deduct an amount equal to any advances for the year's living and operating expenses. If the amount of the payment exceeds the amount of any advances *plus* the amount due on each loan for the year, the excess should be distributed according to paragraph (a)(1)(iii) of this section.

(iii) *Third*, to Agency loans in proportion to the delinquencies existing on each. If the amount of the payment exceeds the amount of any advances *plus* the amount due on each loan for the

year *plus* any delinquencies, the excess should be distributed according to paragraph (a)(1)(iv) of this section.

(iv) *Fourth*, as advance payments on Agency loans. In making such distribution consider the principal balance outstanding on each loan, the security position of the liens securing each loan, the borrower's request, and related circumstances.

(2) When the County Supervisor determines it is reasonable to expect that the income which will be available for payment on Agency debts will be sufficient to pay the installments scheduled for the year under the first and second priorities, collections may be distributed so as to avoid unnecessary delinquencies, and regular payments derived from rental or lease of real estate security after approval of foreclosure or voluntary conveyance will be distributed to the real estate lien of the highest priority.

(3) Payments will be distributed differently than the priorities provided in this section if accounts are out of balance or a different distribution is needed to protect the government's interest.

(4) Any income received from the sale of softwood timber on marginal land converted to the production of softwood timber must be applied on the ST loan(s).

(b) *Distribution of extra payments.* Extra payments will be distributed first to the Agency loan having highest priority of lien on the security from which the payment was derived. When the payment is in excess of the unpaid balance of the Rural Development lien having the highest priority, the balance of such payment will be distributed to the Rural Development loan having the next highest priority.

(c) *Application of payments.* After the decision is reached as to the amount of each payment that is to be distributed to the different loan types, application of the payment will be governed by §§ 1951.10 or 1951.11 of this subpart as appropriate.

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