

agency under Public Law 103-354 by the borrower for tenants without current tenant certifications unless there is a formal eviction in process, then the payment will be calculated based on the expired tenant certificate. The District Director may determine that the tenant may be required to reimburse the borrower for that overage as allowed in paragraph VII F 6 c of exhibit B to subpart C of part 1930 of this chapter.

(iv) The borrower may subtract any RA due the project (supported by current tenant certifications) from the payment due and remit a "net" payment. Calculations supporting the "net" payment must be shown on Part I of Form FmHA or its successor agency under Public Law 103-354 1944-29. The Finance Office will net enough RA to bring the account status current and pay any unpaid overage, late fees, interest on delinquent principal, etc., based on the payment reception date. If the account is on or ahead of schedule on the payment reception date, enough RA will be netted to pay one full installment and any unpaid coverage, interest on delinquent principal, etc.

(6) The District Director will certify that data on current tenant certifications held in the District Office supports claims on Form FmHA or its successor agency under Public Law 103-354 1944-29. The District Director will transmit payments as directed in exhibit A of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office).

(7) Payment input by FmHA or its successor agency under Public Law 103-354 will be based on correct amounts regardless of the amount remitted by the borrower.

(b) *Other payments.* Payments made through the District Office will be processed according to subpart B of part 1951 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office).

(c) *Uncollectible payment.* Uncollectible payments will be handled under subpart B of this part 1951 of this chapter. The payment effective date for the replacement payment will be the date the replacement payment is

received in the District Office, not the date of the original payment.

[50 FR 8597, Mar. 4, 1985, as amended at 51 FR 27671, Aug. 1, 1986; 55 FR 25078, June 20, 1990; 56 FR 28038, June 19, 1991; 58 FR 40954, July 30, 1993; 59 FR 54789, Nov. 2, 1994; 62 FR 25065, 25070, May 7, 1997]

§ 1951.507 Maintaining borrower accounts.

(a) *Accounts of active borrowers.* The foundation for proper and timely debt payment is sound budgeting and monthly review of income and expenses by the borrower and, as necessary, the District Office staff. Account maintenance, therefore, must begin with initial planning and must be an integral part of ongoing analysis, planning and follow-up management assistance.

(b) *Accounts of collection-only borrowers.* Collection only accounts will be serviced according to § 1951.7(b) of subpart A of this part.

(c) *Notifying borrowers of late fees and past due payments.* The Finance Office will automatically notify each borrower of late fees for payments which were unpaid on the 10th day of the month. A copy of the notice will be mailed to the District Office servicing the account.

(d) *Subsequent servicing.* Delinquent accounts will be serviced according to the respective program requirements. Accounts will also be serviced under subpart B of part 1965 of this chapter.

(e) *District Office monitoring.* District Offices should review each account at least monthly by accessing the Automated Multi-Housing Accounting System (AMAS) through field office terminals. For projects on PASS, the Management System card will be flagged with an orange signal between Position "5" and "RRH." Exhibit A-1 of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) should be used to track payments.

[50 FR 8597, Mar. 4, 1985, as amended at 58 FR 40955, July 30, 1993]

§§ 1951.508-1951.509 [Reserved]

§ 1951.510 Payment application.

(a) *Regular payment due date.* The regular payment due date is the first day

of each month. All months will be counted as 30 days (360 day year).

(b) *First regular payment.* (1) The first regular amortized payment after loan closing for transfers (new terms), re-amortizations, voluntary conversions, credit sales, or loans closed after interim financing *must* be at least one (1) month from closing. For example, if a loan is closed on January 31, the first regular amortized payment will be due March 1. For multiple advance loans the first payment must be at least one (1) month after the final advance.

(2) For transfers (same terms) payments on loans already on PASS will be due on the next scheduled due date.

(3) Transfers (same terms) converting from DIAS to PASS are loans retaining the same interest rate and final due date and regular amortized payments will be due 30 days from either the date of closing or the interest only installment, whichever is later.

(c) *Delinquent payments.* (1) A loan payment is due on the first day of a month. A loan payment is considered past due when it is received on the second day or a subsequent day through the close of business of the tenth day of the month. A loan payment is late when it is received after normal business hours of the tenth day of the month, without regard to weekends, holidays or payment transmission factors. Thereafter, a late fee will be charged as described in paragraphs (c)(2) and (c)(4) of this section.

(2) The project account will be charged a late fee when the regular payment is not received in the District Office by close of business of the tenth (10) day of the month the payment is due or when the payment is applied by the Finance Office and does not fully pay the regular payment and other charges for each project loan. Late fees collected by the Finance Office will be deposited in the Rural Housing Insurance Fund (RHIF).

(i) The project late fee is six percent of the total regular payment(s) due shown on the promissory note(s), conversion agreement(s), assumption agreement(s) or reamortization agreement(s).

(ii) A project late fee will be charged for any unpaid portion of the regular payment(s) exceeding \$15.00.

(iii) A project late fee will be charged one time only, for each regular payment.

(iv) Except for cooperative housing, project late fees may not be paid from project income as specified in paragraph XIII B2a(4) of exhibit B to subpart C of part 1930 of this chapter.

(v) Exceptions may be made to late fee charges only as follows:

(A) The State Director may allow an exception for any project for three (3) monthly project late fee charges in any calendar year, based on the State Director's determination that the late fees place an unfair burden on the project. For each exception requested, the borrower must provide a written explanation of the circumstances which caused the late payment and what actions will be taken to bring the account current.

(B) The National Office may authorize exceptions to late fees for borrowers who have late fees exceeding the State Director's exception authority. When the State Director determines that the application of a late fee would place an unfair burden on the borrower, the State Director may submit a request for an exception to the late fee to the National Office. The request will include an explanation of the circumstances, a recommendation for action and all relevant case file material. The National Office will review the request and notify the State Director what action should be taken on the account.

(C) When an exception to late fees is granted, the State Director will notify the borrower on Form FmHA or its successor agency under Public Law 103-354 1951-51, "Multiple Family Housing Exception to Late Fees," completed according to the FMI.

(D) When an application for late fee exception is denied the State Director must give the borrower appeal rights under subpart B of part 1900 of this chapter.

(3) A project is considered delinquent on the 30th day of the month when any due amount is unpaid.

(4) When a regular PASS payment continues to be delinquent on the first of the month following the delinquent payment due date, interest will be

charged on the unpaid delinquent principal at the note rate from the date the principal was due until all regular payments, recoverable cost charges, late fees, and occupancy surcharges have been paid current in accordance with the number of full installments required by the promissory note. This interest will be in addition to the scheduled interest of the regular payment. The interest on delinquent principal will be added to the regular payment amount due for the month.

(d) *Subsidy credit.* When the Finance Office receives the regular payment, subsidy credit will be applied to the loan account before any payment or other credit is applied to the account. Subsidy credit will be applied first to accrued interest and then to principal after all interest is paid. Subsidy credit will not be applied to late fees, audit receivables, or recoverable cost charges.

(e) *Regular payments.* Regular payments will be applied in the following priority:

- (1) Amortized audit receivables.
- (2) Unamortized audit receivables.
- (3) All project late fees due.
- (4) Occupancy surcharges.
- (5) Amortized recoverable costs due.
- (6) Unamortized recoverable costs due.
- (7) Overage.
- (8) All other interest due.
- (9) Principal.
- (10) Any remaining regular payment will be applied as an advance regular payment unless specifically designated otherwise.

(f) *Advance regular payments.* These payments affect the payment status of the loan. The loan account must be current before a payment can be applied as an advance payment. The payment effective date will be the due date of the next regular payment which is not fully paid.

(g) *Extra and refund payments.* Both will be applied as principal to the last installment to become due under the note.

(h) *Voluntary additional principal payments.* These payments will only be credited to the account when all regularly scheduled payments on the account have been paid. Voluntary additional principal payments are credited

all to principal, as of the payment effective date, and do not affect the payment status of the loan.

(i) *Projects with initial and subsequent loan(s).* Regular payments on projects with an initial and subsequent loan(s) will be applied according to the priorities listed in §1951.510(e) of this subpart. Each priority item will be paid for all project loans before moving to the next item.

Payments will be applied for each priority item in accordance with the loan number, beginning with the initial loan and ending with the highest numbered subsequent loan.

(j) *Final payments.* Final payments will be applied on the next payment due date or the final due date shown on the promissory note, assumption agreement or reamortization agreement, whichever is sooner. The District Office must contact the Finance Office for the amount of the final payment. Final payment should be accepted under conditions specified in §1965.90 of subpart B to part 1965 of this chapter.

[50 FR 8597, Mar. 4, 1985, as amended at 53 FR 16245, May 6, 1988; 55 FR 5975, Feb. 21, 1990; 55 FR 25078, June 20, 1990; 56 FR 2257, Jan. 22, 1991; 58 FR 40955, July 30, 1993]

§ 1951.511 [Reserved]

§ 1951.512 Changes in the application of loan payments.

District Office employees with State Director authorization according to §1930.143 of subpart C to part 1039 of this chapter are authorized to approve reapplication of loan payments between accounts when payments have been applied in error. All authorization for reapplication of payments must conform to the policies expressed in this subpart. No change may be made if the loan is paid in full, the cancelled note or notes have been returned to the borrower, and the security instruments have been satisfied. The District Director will process the changes as prescribed in exhibit A of this subpart (available in any FmHA or its successor agency under Public Law 103-354 of-fice) by the AMAS Coordinator.

[56 FR 28038, June 19, 1991, as amended at 58 FR 40955, July 30, 1993]