§ 27.35 Foreclosure costs.

Pursuant to section 369C(5) of the Act (12 U.S.C. 3711(5)), a commission to the foreclosure commissioner for the conduct of the foreclosure will be paid in an amount to be determined by the General Counsel. A commission may be allowed to the commissioner notwithstanding termination of the sale or appointment of a substitute commissioner before the sale takes place.

§ 27.40 Disposition of sale proceeds.

(a) The priority of the Secretary’s lien shall be determined by the Federal first-in-time first-in-right rule. State laws affording priority to liens recorded after the mortgage are preempted.

(b) If there is more than one party holding a lien or assessment payable from sales proceeds, the claim of each party holding the same kind of lien or assessment will be given the relative priority to which it would be entitled under the law of the State in which the security property is located.

(c) The commissioner will keep such records as will permit the Secretary to verify the costs claimed under section 369C of the Act (12 U.S.C. 3711), and otherwise to audit the commissioner’s disposition of the sale proceeds.

§ 27.45 Transfer of title and possession.

(a) If the Secretary is the successful bidder, the foreclosure commissioner shall issue a deed to the Secretary upon receipt of the amount needed to pay the costs listed in sections 369D (1) through (3) of the Act (12 U.S.C. 3712(1) through (3)). If the Secretary is not the successful bidder, the foreclosure commissioner shall issue a deed to the purchaser upon receipt of the entire purchase price and execution by the Secretary and the purchaser of any use agreement referred to in §27.20(e). Any covenants reflecting terms required by §27.20 shall be contained in the commissioner’s deed.

(b) Subject to any terms required to be agreed to by §27.20, any commercial tenant and any residential tenant remaining in possession after the expiration of his or her lease or after the passage of one year, whichever event occurs first, shall be deemed a tenant at sufferance and may be evicted in accordance with applicable State or local law.

§ 27.50 Management and disposition by the Secretary.

When the Secretary is the purchaser of the security property, the Secretary shall manage and dispose of it in accordance with section 203 of the Housing and Community Development Amendments of 1978, as amended, 12 U.S.C. 1701z-11, and in accordance with 24 CFR part 290.