

§ 3550.164

and reamortized over a period not to exceed 10 years or the final due date of the original promissory note, whichever is sooner.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78332, Dec. 24, 2002]

§ 3550.164 Unauthorized assistance.

(a) *Definition.* Unauthorized assistance includes any loan, payment subsidy, deferred mortgage payment, or grant for which the recipient was not eligible.

(b) *Unauthorized assistance due to false information.* (1) False information includes information that the recipient knew was incorrect or should have known was incorrect that was provided or omitted for the purposes of obtaining assistance for which the recipient was not eligible.

(2) If the recipient receives an unauthorized loan due to false information, RHS will adjust the account using the NP interest rate that was in effect when the loan was approved. The recipient must pay the account in full within 30 days.

(3) If the recipient receives unauthorized subsidy due to false information, RHS will require the recipient to repay it within 30 days. The account cannot be reamortized to include the unauthorized subsidy. If the recipient repays the unauthorized subsidy, the loan may be continued.

(c) *Unauthorized assistance due to inaccurate information.* (1) Inaccurate information includes incorrect information inadvertently provided, used, or omitted without the intent to obtain benefits for which the recipient was not eligible.

(2) RHS will permit a recipient who receives an unauthorized loan due to inaccurate information to retain the loan under the following conditions.

(i) If the inaccurate information was related to the purpose of the loan or the recipient's eligibility, with the exception of income, or the income used was incorrect, but the recipient still qualified as income-eligible, RHS will allow the recipient to continue the loan on existing terms.

(ii) If a section 502 recipient's income was above the moderate-income level, RHS will convert the loan to an NP loan, using the nonprogram interest

7 CFR Ch. XXXV (1-1-12 Edition)

rate in effect on the date the loan was approved.

(iii) If a section 504 recipient's income was above the very low-income level, RHS will apply the applicable 502 or nonprogram interest rate in effect on the date the loan was approved.

(iv) If an incorrect interest rate was used, RHS will adjust the account using the correct interest rate.

(3) If the recipient receives unauthorized subsidy due to inaccurate information, RHS will require the recipient to repay it within 30 days. If the recipient cannot repay it within 30 days, the account may be reamortized. If the recipient repays the unauthorized subsidy or reamortizes the loan, the loan may be continued.

(d) *Unauthorized grants.* Recipients may either repay the unauthorized assistance in a lump sum or execute a promissory note, regardless of whether the unauthorized assistance was due to false or inaccurate information. RHS may seek a judgment if the recipient refuses to repay the unauthorized assistance.

(e) *Account servicing.* RHS will adjust all accounts retroactively to establish the amount of unauthorized assistance. If the recipient does not repay the unauthorized assistance within 30 days, RHS may accelerate the loan. If the unauthorized assistance is due to inaccurate information and the recipient is unable to repay within 30 days, RHS may reamortize the loan.

(f) *Accounts with no security.* If an unauthorized loan or grant is unsecured, RHS may seek the best mortgage obtainable.

§§ 3550.165–3550.199 [Reserved]

§ 3550.200 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1½ hours per response, including time for reviewing instructions, searching existing data sources, gathering and

Rural Housing Service, USDA

§ 3550.205

maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78332, Dec. 24, 2002]

Subpart E—Special Servicing

§ 3550.201 Purpose of special servicing actions.

The Rural Housing Service (RHS) may approve special servicing actions to reduce the number of borrower failures that result in liquidation. Borrowers who have difficulty keeping their accounts current may be eligible for one or more available servicing options including: payment assistance; delinquency workout agreements that temporarily modify payment terms; protective advances of funds for taxes, insurance, and other approved costs; payment moratoriums; and reamortization of the loan.

§ 3550.202 Past due accounts.

An account is past due if the scheduled payment is not received by the due date, or as authorized by State law.

(a) *Late fee.* A late fee will be assessed if the full scheduled payment is not received by the 15th day after the due date.

(b) *Liquidation*—(1) *For borrowers with monthly payments.* The account may be accelerated without further servicing when at least 3 scheduled payments are past due or an amount equal to at least 2 scheduled payments is past due for at least 3 consecutive months. In such cases RHS may pursue voluntary liquidation and foreclosure.

(2) *For borrowers with annual payments.* The account may be accelerated without further servicing when at least $\frac{3}{12}$ of 1 scheduled payment has not been received by its due date. In such cases, RHS may pursue voluntary liquidation and foreclosure.

§ 3550.203 General servicing actions.

Whenever any of the servicing actions described in this subpart result in

reamortization of the account RHS may:

(a) Require a borrower who currently makes annual payments, but receives a monthly income, to convert to monthly payments.

(b) Require the creation and funding of an escrow account for real estate taxes and insurance, if one does not already exist for any borrower with monthly payments.

(c) Convert the method of calculating interest for any account being charged daily simple interest to an amortized payment schedule.

§ 3550.204 Payment assistance.

Borrowers who are eligible may be offered payment assistance in accordance with subpart B of this part. Borrowers who are not eligible for payment assistance because the loan was approved before August 1, 1968, or the loan was made on above-moderate or nonprogram (NP) terms, may refinance the loan in order to obtain payment assistance if:

(a) The borrower is eligible to receive a loan with payment assistance;

(b) Due to circumstances beyond the borrower's control, the borrower is in danger of losing the property; and

(c) The property is program-eligible.

§ 3550.205 Delinquency workout agreements.

Borrowers with past due accounts may be offered the opportunity to avoid liquidation by entering into a delinquency workout agreement that specifies a plan for bringing the account current. To receive a delinquency workout agreement, the following requirements apply:

(a) A borrower who is able to do so will be required to pay the past-due amount in a single payment.

(b) A borrower who is unable to pay the past-due amount in a single payment must pay monthly all scheduled payments plus an agreed upon additional amount that brings the account current within 2 years or the remaining term of the loan, whichever is shorter.

(c) If a borrower becomes more than 30 days past due under the terms of a delinquency workout agreement, RHS may cancel the agreement.