under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in the same manner as improvements financed with loan funds.

(g) *Completing adjustment.* The borrower must complete the adjustment of the loss with the company or its authorized representatives. The County Supervisor, upon request of the borrower may consult with the borrower regarding the loss adjustment, but will not enter into negotiations with insurance adjusters or company representatives relative to the adjustment or settlement of losses on borrower property, or make any commitments, or sign any forms in connection with the adjustment of the loss. The FmHA or its successor agency under Public Law 103–354 will not waive any rights which it may have against the company except when the borrower's account or the FmHA or its successor agency under Public Law 103–354 claim has been paid-in-full.

(1) The County Supervisor will maintain a proper followup on all losses until satisfactory settlement has been made by the company.

(2) Where the County Supervisor has evidence that the adjustment agreed to by the borrower is significantly less than the amount of damage to which the borrower is entitled under the terms of the policy, the loss draft accompanied by a report will be sent to the State Director so that he may reopen the adjustment, if he considers it is in the interest of the FmHA or its successor agency under Public Law 103–354 to do so.

(3) When it appears evident that the amount of the loss is $1,000 or less, the County Supervisor may rely on estimates of contractors, building supply firms, reliable carpenters, or other evidence rather than personal inspection in determining whether the adjustment is equitable and the Government's interest is protected.

(h) *Reinstatement after loss.* In cases where insurance in the amount of the loss is not reinstated automatically by the provisions of the policy, it will be the responsibility of the County Supervisor to have the borrower reinstate as much of the insurance as may be necessary to fulfill the requirements of the FmHA or its successor agency under Public Law 103–354.

(i) *Losses not covered by insurance.* When a loss occurs and insurance is not in force, the County Supervisor will:

(1) Inform the borrower that he has violated the security instrument by not providing insurance coverage and that it is his responsibility to make the needed replacements or repairs.

(2) If the borrower is unable or unwilling to make needed repairs or replacements from his own resources, the County Supervisor will submit complete information to the FmHA or its successor agency under Public Law 103–354 official authorized to determine whether FmHA or its successor agency under Public Law 103–354 will or will not continue with the loan. The County Supervisor's report will include recommendations on the following items:

(i) The advisability and possibility of making a subsequent loan to pay for needed repairs.

(ii) Subordination of the FmHA or its successor agency under Public Law 103–354 real estate lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) The possibility of the borrower obtaining funds secured by a junior lien from another source.

(iv) Whether an advance is needed to protect the Government's interest in the property.

(3) If the loan will not be continued with the borrower, it must be serviced in accordance with the applicable Instructions.

(4) If the borrower has improperly disposed of loss proceeds, the County Supervisor will refer the case with complete information and recommendations to the State Director. The State Director will consult the Regional Attorney when necessary and advise the County Supervisor as to appropriate servicing actions.

[41 FR 34571, Aug. 16, 1976, as amended at 50 FR 39638, Sept. 30, 1985]

§ 1806.6 Failure of borrower to provide insurance.

When a borrower fails to provide and maintain property insurance which meets the requirements set forth in § 1806.2 of this subpart, every effort will be made to have the borrower provide coverage acceptable to FmHA or its successor agency under Public Law 103–354. It will be emphasized that under the terms of the security instrument, it is the borrower's responsibility to provide and maintain proper insurance coverage. Existing borrowers required to escrow will be notified by letter at least 90 days prior to initiating escrowing for insurance. Failure to provide insurance is a nonmonetary default and will be a consideration in determining if the loan is to be continued. For FP or SFH borrowers *not* required to escrow, the County Supervisor will obtain insurance coverage and voucher for the insurance premium only in cases where: An unusual and severe hazard, such as recurring fires or unstable ground conditions, exists, or, an SFH borrower on a moratorium is unable to pay the insurance premium and the borrower requests that FmHA or its successor agency under Public Law 103–354 pay the premium. For SFH borrowers required to escrow, force placed insurance will be obtained if the borrower fails to provide acceptable insurance. Borrowers being phased into escrow will be given at least 30 days to obtain coverage, after which force placed insurance will be obtained. If the escrow account contains insufficient funds to pay the insurance when due, the County Supervisor will request the borrower to pay an amount equal to the difference between the premium due and the escrow balance in a lump sum within 30 days after notification. If the borrower fails to remit the amount requested, the amount will be advanced and charged to the borrower's account as a recoverable cost. The amortization period for an advance due to an escrow shortage will be one year. Insurance coverage shall be provided continuously unless the property is acquired by FmHA or its successor agency under Public Law 103–354. The cost of obtaining such a policy shall be advanced and charged to the borrower's account as a recoverable cost. Amortization of the charge will be handled in accordance with7 CFR part 3550. If a borrower indebted for other than an FP or SFH loan fails to provide acceptable insurance, the Servicing Official will take the following action:

(a) *Expired policies.* (1) The County Supervisor will request the insurance agency or broker who issued the expired policy to issue a new policy which is acceptable to the FmHA or its successor agency under Public Law 103–354.

(i) The new policy will be effective as of the date of the County Supervisor's contact with the insurance agency or broker or as soon thereafter as possible, and will be for a term of one year. If State insurance regulations require a longer term, the State Director will issue a State Instruction authorizing County Supervisors to obtain policies for the minimum period permitted by State insurance regulations.

(ii) The FmHA or its successor agency under Public Law 103–354 will be shown in the loss payable clause and in the mortgage clause in the proper order of priority.

(iii) Insurance coverage on each building usually will be the same as shown on the expired policy if it meets or exceeds FmHA or its successor agency under Public Law 103–354 requirements. If the coverage shown on the expired policy does not meet FmHA or its successor agency under Public Law 103–354 requirements, proper coverage will be obtained.

(iv) The County Supervisor will, if possible, have an automatic renewal provision included in the policy.

(v) If the borrower refuses to pay the insurance premium with his own funds or arrange with the agent for subsequent payment by premium not or otherwise, the County Supervisor will pay the amount of the insurance premium in accordance with FmHA or its successor agency under Public Law 103–354 Instruction 2024–A. The amount of the premium payment will be charged to the borrower's FmHA or its successor agency under Public Law 103–354 account with the highest lien priority as a recoverable cost item.

(vi) If the insurance agency or broker who issued the expired policy refuses to issue a new policy, the County Supervisor will have the borrower designate in writing another insurance agency or broker from whom the insurance can be obtained.

(vii) After the County Supervisor and the borrower exhaust all efforts to obtain acceptable insurance, the County Supervisor will request advice from the State Office as to companies issuing acceptable policies in the State and from which the borrower might be able to obtain an acceptable policy. If the borrower still cannot obtain an acceptable policy from any such company, and the determination has been made to continue with the borrower, the County Supervisor will temporarily accept from the borrower the available insurance policy the FmHA or its successor agency under Public Law 103–354 determines most nearly conforms to the requirements of §1806.2 of this subpart.

(A) In making this determination, the following deficiencies become more objectionable in the order from (*1*) to (*5*) paragraphs (a)(1)(vii)(A) of this section:

(*1*) A policy written for an initial term of less than one year.

(*2*) A policy which will insure the most essential buildings but will not cover all essential buildings.

(*3*) A policy which covers major risks such as fire and lightning, but does not include one or more of the other risks specified in §1806.2(8).

(*4*) A policy for a lesser amount of insurance than is required by §1806.3.

(*5*) A policy that is issued by a company which is not licensed to do business in the State or otherwise does not meet the requirements of §1806.3.

(B) Whenever adequate insurance becomes available, the County Supervisor will require the borrower to deliver to the County Office an acceptable insurance policy. The temporary policy will be returned to the borrower for cancellation after all losses claimed under the policy have been settled.

(C) If the borrower is unable to furnish a property insurance policy of any kind, he is still responsible for the debt in the event of loss.

(D) If the County Supervisor accepts an inadequate insurance policy under these conditions or the borrower fails to furnish any insurance policy, the County Supervisor will include in his report to the State Director an explanation of the efforts he and the borrower made to obtain acceptable insurance and his justification for accepting an inadequate policy, or for not obtaining an insurance policy of any kind.

(b) *Insurance canceled for reasons other than nonpayment of insurance premium.* (1) The County Supervisor, immediately upon receipt of a 10-day notice of cancellation for a policy, will urge the borrower to provide acceptable insurance.

(2) If the borrower fails to provide acceptable insurance before the cancellation is effective, the County Supervisor will contact the insurance agency or broker who issued the insurance policy to determine the reasons for cancellation and, if possible, have the policy reinstated.

(3) If the insurance company will not reinstate the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another agency or broker in accordance with the provisions of paragraph (a) of this section.

(c) *Insurance canceled for nonpayment of premium.* (1) The County Supervisor, immediately upon receiving a 10-day cancellation notice for a policy, will, if possible, contact the borrower in an effort to have him pay the insurance premium from his own funds or arrange with the agent for subsequent payment by premium note, or otherwise.

(2) If the borrower does not pay or arrange to pay the premium before the policy cancellation is effective, the County Supervisor will, before the cancellation becomes effective, notify the insurance company or broker by certified mail (return receipt requested), that the FmHA or its successor agency under Public Law 103–354 as mortgagee (or trustee) will pay the premium for one year to continue the policy in effect for that period. The County Supervisor will, in accordance with FmHA or its successor agency under Public Law 103–354 Instruction 2024–A, pay the amount of the premium for a period of one year. The amount of the premium will be charged to the borrower's loan account as a recoverable cost item.

(3) If a property insurance mortgage clause other than Form FmHA or its successor agency under Public Law 103–354 426–2 is used in connection with the policy and the insurance company or broker refuses to accept payment from

the FmHA or its successor agency under Public Law 103–354 in this manner to reinstate or continue the policy, the County Supervisor will attempt to obtain an acceptable insurance policy from another insurance company or broker in accordance with the provisions of paragraph (a) of this section.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegation of authority by Director OEO 29 FR 14764, 33 FR 9850)

[41 FR 34571, Aug. 16, 1976, as amended at 42 FR 33263, June 30, 1977; 43 FR 34430, Aug. 4, 1978; 50 FR 39638, Sept. 30, 1985; 56 FR 6945, Feb. 21, 1991; 57 FR 36590, Aug. 14, 1992; 67 FR 78326, Dec. 24, 2002]

EXHIBIT A TO SUBPART A OF PART 1806—ESCROW AGREEMENT REAL PROPERTY INSURANCE

Date ____________________
(Name of bank) ____________________
(City or town) ____________________
(State) ____________________

Gentlemen: Attached is Draft No. _____, for $_____, issued by the __________ Insurance Company in payment of _____ loss which damage the buildings on the farm of ______________, of ___________ County, State of ___________.

This draft has been endorsed by the undersigned payees who request that you collect these funds and issue cashier's checks to the following payees for the following amounts:

_____________, First Mortgage $_____
_____________, Second Mortgage $_____
_____________, Third Mortgage $_____

The balance only, if any, will be paid to _____________, the owner of the property.

First Mortgagee ____________________
Second Mortgagee ____________________
Third Mortgagee ____________________
Owner ____________________

Subpart B—National Flood Insurance

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 38 FR 14944 (7 CFR 2.23); delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952 (7 CFR 2.70).

SOURCE: 39 FR 17093, May 13, 1974, unless otherwise noted.

§ 1806.21 General.

(a) *Authority.* This subpart prescribes the policies and procedures to be followed in implementing the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973. The provisions of these Acts are applicable to Farmers Home Administration (FmHA) or its successor agency under Public Law 103–354 authorities permitting financing of buildings of any type now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development (HUD), and any machinery, equipment, fixtures and furnishings contained or to be contained therein. This subpart does not apply to Farm Service Agency, Farm Loan Programs and to Rural Rental Housing, Rural Cooperative Housing, or Farm Labor Housing programs of the Rural Housing Service.

(b) *Background.* The Congress has found that annual losses throughout the nation caused by floods and mudslides are increasing at an alarming rate, largely as a result of the accelerated development and concentration of populations in areas subject to floods and mudslides. The availability of Federal funds in the form of loans, grants, guarantees, insurance and other forms of financial assistance are often determining factors in the utilization of land and the location and construction of industrial, commercial and residential facilities.

(c) *Scope.* The National Flood Insurance Program (the program) was authorized and created because the private insurance industry has been unable to provide insurance coverage at reasonable prices for such natural disasters as floods and mudslides. Subsidized and affordable insurance has been made available under the Act through an agreement between the Federal Insurance Administration and the National Flood Insurers Association.

[39 FR 17093, May 13, 1974, as amended at 69 FR 69103, Nov. 26, 2004; 72 FR 64121, Nov. 15, 2007]