

## **RHS, RBS, RUS, FSA, USDA**

## **§ 1951.300**

(3) If a borrower is unable to graduate the full amount of the loan, the borrower must furnish evidence to the Agency, showing:

(i) The names of other lenders contacted;

(ii) The amount of loan requested by the borrower and the amount, if any, offered by the lenders;

(iii) The rates and terms offered by the lenders or the specific reasons why other credit is not available; and

(iv) The purpose of the loan request.

(4) The difference in interest rates between the Agency and other lenders will not be sufficient reason for failure to graduate if the other credit is available at rates and terms which the borrower can reasonably be expected to pay. An exception is made where there is an interest rate ceiling imposed by Federal law or contained in the note or mortgage.

(5) The Agency will notify the borrower in writing if it determines that the borrower can graduate. The borrower must take positive steps to graduate within 15 days for individual loans and 60 days for group loans from such notice to avoid legal action. The servicing official may grant a longer period where warranted.

### **§ 1951.264 Action when borrower fails to cooperate, respond or graduate.**

(a) When borrowers with other than FCP loans fail to:

(1) Provide information following receipt of both FmHA Guide Letters 1951-1 and 1951-2 (available in any Agency office), or letters of similar format, they are in default of the terms of their security instruments. The approval official may, when appropriate, accelerate the account based on the borrower's failure to perform as required by this subpart and the loan and security instruments.

(2) Apply for or accept other credit following receipt of both FmHA Guide Letters 1951-F-5 and 1951-6 (available in any Agency office), or letters of similar format, they are in default under the graduation requirement of their security instruments. If the Agency determines the borrower is able to graduate, foreclosure action will be initiated in accordance with § 1955.15(d)(2)(ii). If the borrower's ac-

count is accelerated, the borrower may appeal the decision.

(b) If an FCP borrower fails to cooperate after a lender expresses a willingness to consider refinancing the Agency loan, the account will be referred for legal action.

### **§ 1951.265 Application for subsequent loan, subordination, or consent to additional indebtedness from a borrower who has been requested to graduate.**

(a) Any borrower who appears to meet the local commercial lending standards, taking into consideration the Agency's loan guarantee program, will not be considered for a subsequent loan, subordination, or consent to additional indebtedness until the borrower's ability or inability to graduate has been confirmed. An exception may be made where the proposed action is needed to alleviate an emergency situation, such as meeting applicable health or sanitary standards which require immediate attention.

(b) If the borrower has been requested to graduate and has also been denied a request for a subsequent loan, subordination, or consent to additional indebtedness, the borrower may appeal both issues.

### **§ 1951.266 Special requirements for MFH borrowers.**

All requirements of 7 CFR part 3560, subpart K must be met prior to graduation and acceptance of the full payment from an MFH borrower.

[69 FR 69105, Nov. 26, 2004]

### **§§ 1951.267–1951.299 [Reserved]**

### **§ 1951.300 OMB control number.**

The reporting requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0093.