

§ 4280.151

7 CFR Ch. XLII (1–1–14 Edition)

§ 4280.151 [Reserved]

§ 4280.152 Servicing guaranteed loans.

The lender must service the entire loan and must remain mortgagee and secured party of record notwithstanding the fact that another party may hold a portion of the loan. The entire loan must be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of a loan will neither be paid first nor given any preference or priority over the guaranteed portion of the loan.

(a) *Routine servicing.* Comply with § 4287.107 of this chapter, except that all notifications from the lender to the Agency shall be in writing and all actions by the lender in servicing the entire loan must be consistent with the servicing actions that a reasonable, prudent lender would perform in servicing its own portfolio.

(b) *Interest rate adjustments.* Comply with § 4287.112 of this chapter, except that under § 4287.112(a)(3) of this chapter the interest rates, after adjustments, must comply with the requirements for interest rates on new loans as established by § 4280.125.

(c) *Release of collateral.* (1) Collateral may only be released in accordance with § 4287.113(a) and (b) of this chapter and paragraph (c)(2) of this section.

(2) Within the parameters of paragraph (c)(1) of this section, lenders may, over the life of the loan, release collateral (other than personal and corporate guarantees) with a cumulative value of up to 20 percent of the original loan amount without Agency concurrence, if the proceeds generated are used to reduce the guaranteed loan or to buy replacement collateral or real estate equal to or greater than the collateral being replaced.

(d) *Subordination of lien position.* All subordinations of the lender's lien position must comply with § 4287.123 of this chapter.

(e) *Alterations of loan instruments.* All alterations of loan instruments must comply with § 4287.124 of this chapter.

(f) *Loan transfer and assumption.* All loan transfers and assumptions must comply with § 4287.134(c), (d), (f), (g),

and (i) through (k) of this chapter in addition to the following:

(1) *Documentation of request.* All transfers and assumptions must be approved in writing by the Agency and must be to eligible applicants in accordance with § 4280.122. An individual credit report must be provided for transferee proprietors, partners, offices, directors, and stockholders with 20 percent or more interest in the business, along with such other documentation as the Agency may request to determine eligibility.

(2) *Terms.* Loan terms must not be changed unless the change is approved in writing by the Agency with the concurrence of any holder and the transferor (including guarantors), if they have not been or will not be released from liability. Any new loan terms must be within the terms authorized by § 4280.126. The lender's request for approval of new loan terms will be supported by an explanation of the reasons for the proposed change in loan terms.

(3) *Additional loans.* Loans to provide additional funds in connection with a transfer and assumption must be considered as a new loan application under § 4280.128.

(4) *Loss resulting from transfer.* If a loss should occur upon consummation of a complete transfer and assumption for less than the full amount of the debt and the transferor (including personal guarantors) is released from liability, the lender, if it holds the guaranteed portion, may file Form RD 449-30, "Loan Note Guarantee Report of Loss," to recover its pro rata share of the actual loss. If a holder owns any of the guaranteed portion, such portion must be repurchased by the lender or the Agency in accordance with § 4279.78(c) of this chapter. In completing the report of loss, the amount of the debt assumed will be entered as net collateral (recovery). Approved protective advances and accrued interest thereon made during the arrangement of a transfer and assumption will be included in the calculations.

§ 4280.153 Substitution of lender.

(a) All substitutions of lenders must comply with § 4287.135(a)(2) and (b) of this chapter and paragraph (b) of this section.