



## LENDER SERVICING RESPONSIBILITIES

### Business & Industry (B&I) Guaranteed Loan Program

The lender is responsible for servicing the entire B&I loan (both guaranteed and unguaranteed portions) in a prudent manner. These responsibilities are more fully set forth in the Lender's Agreement governing the B&I guarantee and in RD Instruction 4287-B – <http://www.rurdev.usda.gov/regs/regs/pdf/4287b.pdf> A B&I lender's responsibilities include:

#### Routine servicing

- Seeing that any development work being financed is properly planned and carried out
- Receiving and applying all payments equally to the guaranteed and unguaranteed portion
- Making routine visits to the borrower
- Assuring compliance with all loan and security instruments

#### Annual renewal fee

- Paying an annual fee to USDA based on the loan's year-end principal balance (the fee is fixed at loan approval)

#### Collateral servicing

- Inspecting and accounting for the collateral
- Maintaining the lien positions specified in the Conditional Commitment
- Seeing that proceeds from the sale of collateral are either applied in lien priority order or used to acquire replacement collateral (or, if not, obtaining USDA's prior concurrence)
- Assuring that adequate insurance is maintained
- Monitoring whether taxes and assessments are paid when due

#### Financial information servicing

- Obtaining CPA-prepared financial statements on the borrower at least annually (and on guarantors when needed)
- Spreading and analyzing the borrower's financial condition

#### Problem loan servicing

- Protecting the loan and collateral in the event of default
- Protecting the collateral from third party actions – foreclosures, condemnations, tax sales, etc.
- Protecting the loan in the event of a bankruptcy

#### **USDA must be notified:**

- ⇒ semiannually – as of 6/30 and 12/31 – on the loan's status and remaining balance (use Form RD 1980-41)
- ⇒ annually – 120 days after the borrower's fiscal year-end – provide financials, spreads, & analysis
- ⇒ if the loan is sold on the secondary market (provide USDA with copy of executed Form RD 4279-6, "Assignment")
- ⇒ whenever the lender's classification of the loan is changed
- ⇒ whenever the loan is ever more than 30 days delinquent (use Form RD 1980-44)
- ⇒ whenever the borrower is in violation of any loan covenant or security agreement

#### **USDA's prior written concurrence is needed:**

- ⇒ before advancing any additional loans to the borrower (even if they are unguaranteed loans)
- ⇒ for any subordination of lien position
- ⇒ for the modification of any loan instruments
- ⇒ if a release of collateral is proposed whose value is more than 20% of the original loan amount
- ⇒ for any restructuring of rates, term, or debt repayment
- ⇒ to release any borrower or guarantor from liability
- ⇒ when cumulative protective advances exceed \$5,000
- ⇒ prior to any liquidation action