

TO	U.S. DEPT. OF AGRICULTURE RURAL DEVELOPMENT RICHMOND, VIRGINIA  <b>PROCEDURE NOTICE</b>	MANUAL	ISSUE NO.
W, S, A, L		HB-1&2-3550	168
		DATE	11/15/01
		DISTRIBUTION CODE	W, S, A, L
		"W" NATIONAL OFFICE	
		"S" STATE OFFICES	
		"A" AREA OFFICES	
		"L" LOCAL OFFICES	
		"P" EMPLOYMENT OFFICES	

**MANUAL CHANGES**

This State Supplement revises State Supplement #163 of HB-1-3550, Chapter 13 and HB-2-3550, Chapter 6.

This revision includes procedures for preparing foreclosure bid requests in prior lieinholder/leveraged loan situations and changes in FASTeller screens.

## SECTION 3: LIQUIDATION

### 13.17 NET RECOVERY VALUE

The calculation to determine estimated Net Recovery Value (NRV) is market value less liquidation, holding, and selling costs plus income. Use of the most current version of the NRV spreadsheet provided by the SFH Division is required.

#### **B. Environmental Considerations**

An appraisal for any servicing action must take into account any known or observed environmental hazards (lead-based paint, petroleum products, underground storage tanks, etc.) Therefore, the field office official must conduct a physical inspection of the property and complete an environmental review prior to ordering an appraisal. The field office official must complete the *Transaction Screen Questionnaire (TSQ)*, to initiate due diligence. Additionally, the field office official should notify the appraiser of any known repairs or special situations which would adversely affect market value such as occupancy deed restrictions required for properties not meeting decent, safe, and sanitary standards (DSS) or restrictive/protective covenants required in cases of floodplains, wetlands or other sensitive environmental resources.

#### **C. Ordering An Appraisal**

##### 1. Valueless Lien

For a valueless lien, an agency ordered appraisal will be used to establish market value.

##### 2. Foreclosure

A foreclosure appraisal will be ordered by the field office staff from an appraiser with whom a Blanket Purchase Agreement (BPA) has been established. Appraisals should be ordered as closely as possible to the date of the foreclosure sale with allowance for receipt and review of the bidding authorization. Once the field office has received and determined the appraisal to be administratively acceptable, it will be forwarded to the State Appraiser for a final review. If the foreclosure bid will be based on the gross investment, the State Appraiser will not need to review the appraisal.

The market value will be based on a market value appraisal. The appraiser may use distress sale comparables, if appropriate. The use of distress sales for comparables will be with discretion and consideration of the effects of market exposure, sale attendance, and suitability of direct comparison with the subject property. Distress sales must not be used solely to adjust for below average condition of typical situations, but may be appropriate due to the lack of nondistressed comparable sales within the market. Comparable sales should be selected with the condition of the property, location, and recent sales in mind.

Field office staff must consider factors such as size, design, possible health and/or safety hazards, and obsolescence due to functional, economic, or locational conditions.

Property will be classified as “program” if the dwelling meets the requirements of HB-1-3550, paragraphs 5.7(A) and 15.4(A). Consideration should also be given to the size, actual/effective age, design and functional utility of the dwelling. Dwellings that show excessive actual and/or effective age, require extensive repairs, have potential health or safety hazards, or are of a design which is not typical of the current property requirements or the market should not continue to be classified as program property.

The concept of affordable, suitable housing for the Section 502 program was redefined with the issuance of 7 CFR 3550 in December 1996. These changes removed previous amenity restrictions, imposed ratios to establish repayment capacity and dramatically altered payment subsidies. Furthermore, these policies affected the profile of our potential customers and the houses/properties that RHS finances.

For the intended objectives of the program to be carried out, it is essential to recognize that the houses RHS finances or, in the case of foreclosure, risk acquiring, should be truly program eligible properties. Again, these determinations are to consider all the applicable factors mentioned and/or referred to above.

Under no circumstances will unimproved lots be classified as program property (HB-1-3550, 16.11).

#### **D. Holding Period**

Generally, the maximum holding periods will be as follows:

Program property – seven (7) months.

Non-program property - 12 months.

However, because of the requirements imposed by the LBP regulation of 9/15/2000, properties constructed prior to either 1960 or 1978 will be granted additional holding time. Please refer to the Lead-Based Paint section below for more specific information.

These time periods have been established because they represent realistic expectations of what effective marketing efforts should result in when properties are discounted for the foreclosure sale and, in the event of acquisition, based on the Sales Schedules outlined in HB-1-3550, Exhibits 16-1 and 16-2.

#### **E. Deductions from Market Value**

**Foreclosure bid** - authorized deductions include prior liens (see below for details, holding costs, administrative costs, management costs and selling expenses to be paid by RHS for program property. Since non-program property is to be sold “as is”, the only authorized deductions for selling expenses will be the broker’s commission and/or any expenses stipulated by the sales contract. In some cases, a deduction for depreciation may be appropriate and the field office staff must provide documentation to support the need for such and the estimated cost. Possible reasons for depreciation are high crime area, potential for vandalism, or the presence of a condition that may accelerate deterioration such as a faulty roof or foundation.

**Short sale** - the NRV will reflect deductions from the contract sales price for authorized expenses that are attributed to the Seller on the HUD-1 Settlement Statement or that are required by the sales contract. In other words, the NRV from the short sale should reflect the estimate net proceeds expected from the proposed transaction and will not include holding costs, administrative, depreciation, or management costs.

**Valueless lien** - the NRV should be prepared as in the case of foreclosure. In most cases, a determination for valueless lien can be attributed to low property value, extremely poor property condition, environmental hazards, or security issues. Any costs to cure these problems should be included in depreciation. By definition, a valueless lien can be recommended and considered only when the estimated NRV is \$0 or less.

## LEAD BASED PAINT CONSIDERATIONS

In accordance with RD AN 3593, dated December 1, 2000, RD is required to follow HUD's Final Rule on Lead-Based Paint (LBP) Hazards in Federally Owned Housing and Housing Receiving Federal Assistance which took effect on September 15, 2000.

For structures constructed prior to 1/1/1960:

- Insert costs totaling \$11,100 {includes inspection (\$500), risk assessment (\$400), abatement (\$10,000) and clearance report (\$200)}, classify the property as appropriate, and insert a holding period of not more than 18 months into the NRV spreadsheet.

For structures constructed between 1/1/1960 and 12/31/1977:

With estimated repairs totaling less than \$5000,

- Insert costs of \$1,900 {inspection, risk assessment, and interim controls of \$1000}, and based on the appropriate classification of the property, a holding period of not more than 12 months for program or 18 months for non-program property into the NRV spreadsheet. If the preparation official believes that the costs for interim controls differ from the estimated \$1000, make the necessary adjustments and provide supporting documentation.

With estimated repairs totaling more than \$5000 and less than \$25,000,

- In addition to the above estimated costs of \$1,900 for inspection, risk assessment, and interim controls, include \$200 for a clearance report. These properties should strongly be considered for classification as non-program based on the guidance provided by HB-1-3550, 15.4, A, but regardless of the classification, the holding period will be no more than 18 months.

With estimated repairs totaling more than \$25,000,

- Properties constructed in this timeframe, having estimated costs of rehabilitation exceeding \$25,000, will always be considered and classified as non-program. Therefore, the agency will not provide the requisite financial assistance associated with abatement. Estimated costs of \$900 for the required LBP inspection and risk assessment will be used together with a holding period not to exceed 24 months.

## LEVERAGED LOANS

- Upon being made aware of an upcoming prior lienholder foreclosure sale, immediately notify the SFH Division in the State Office and send **task 1** to the Risk Management Branch of CSC.
- Obtain a written payoff of the prior lien as of the sale date and the total estimated selling expenses from the Lender's Trustee. These selling expenses will be entered into the administrative cost section of the NRV spreadsheet.
- Since the prior lienholder is conducting the foreclosure as an "absolute sale", do not include the amount of the Lender's prior lien in the prior lien section of the spreadsheet.
- Market value will be established by an appraisal that can be provided by the Lender, or if they are relying on a Broker's Price Opinion, RD will order one through our standard procurement (BPA) process.
- The authorization to bid will be issued to the person designated to attend the sale.
- In the event that RD is the successful bidder, a memo with the necessary supporting documentation will be sent to the SFH Division within 10 days of the sale so that instructions can issued to complete the purchase and acquisition of the property from the Trustee.

### F. Additions to Market Value

There are no cases in which additions to market value would be appropriate in Virginia.

## DETERMINING THE GROSS INVESTMENT

- When it is apparent that our bid will be the NRV, complete the gross investment calculation, using **the principal balance, uncollected fees and the total of the uncollected interest and DS interest from the DIS/BAL screen. The total of the payment assistance interest and principal will determine the total subsidy granted from the RHC/SUB screen.** This will provide a maximum payoff without requesting a payoff from the State Office. Examples of the screens are attached.
- Bids at the gross investment will require an exact payoff. Local offices now have the capability to prepared exact payoffs.

## **WHAT TO SUBMIT FOR FORECLOSURE BID REQUESTS TO THE STATE OFFICE**

- Completed attachment VA-A11-NRV and VA-A11-BR for NRV only on a 3.5” diskette
- A copy of the Uniform Residential Appraisal Report (Form RD 1922-8) and reviewed by the SFH Appraiser
- The original completed attachment VA-A11-BR, signed by the CDM
- Copies of the FASTeller screens DIS/BAL and RHC/SUB or the payoff letter
- Copy of the accepted call order letter if not previously submitted

## **WHAT TO SUBMIT FOR VALUELESS LIEN REQUESTS TO THE STATE OFFICE**

- Completed attachment VA-A11-NRV on a 3.5” diskette
- A copy of the real estate appraisal with Administrative Appraisal Review, Form RD 1922-15
- Provide documentation concerning any non-common costs to the account (legal fees to satisfy security requirements, excessive cleanup fees, etc.)

Upon approval, the field office is to queue CSC to stop payment of real estate taxes and insurance, prepare and record the Certificate(s) of Partial Satisfaction by charging the fees as a recoverable cost to the borrower account, and marking the promissory note(s) “Satisfied by Determination of Valueless Lien”. Enter into Global Notes the name of the individual who approved the action, the date of approval, and the NRV. Send task #826 to notify the Foreclosure/REO Division of the valueless lien and task #198 to notify the Tax Division not to pay real estate taxes.

## **SHORT SALE-PROCESSED AND APPROVED IN THE FIELD OFFICE**

- Completed attachment VA-A11-NRV for both the liquidation and short sale options
- The real estate appraisal (the lender’s appraisal is acceptable if it meets USPAP requirements) with Administrative Appraisal Review, Form RD 1922-15.
- Copies of the FASTeller screens DIS/BAL and RHC/SUB
- Enter into Global Notes the name of the individual who approved the action, the date of approval, outstanding vouchers, and the approved short sale amount
- Follow the directions to enter information in the loss mitigation screens (see Rural Development Intranet, RHS Document Library, CSC Information)
- Proceeds should be remitted on Form RD 3550-17, “Funds Transmittal”, with a detailed explanation to the Cash Management Section of CSC, whose mailing address and fax number should be obtained from the most recent CSC Mail Guide.



- Proceeds from an account that has been accelerated should be coded, “Other” with the statement, “proceeds from third party buyer on a pre-foreclosure short sale” on Form 3550-17. Proceeds from a non-accelerated account should be coded, “Other”, with the statement, “non-accelerated short sale”, on the Form 3550-17.
- If foreclosure instructions have been issued by the State Office, notify the State Office of the approval of the Short Sale by use of Exhibit L (Foreclosure Instructions)

## **DEBT SETTLEMENT**

- To assist CSC with disposition of any remaining account balance(s), the field office should advise and assist the borrower with the submission of the following documents to CSC:
  - Completed Form RD 3550-20, “Application for Settlement of Indebtedness”
  - Last two statements of income verification
  - Two most recent bank statements for all accounts
  - Most recent Federal Income Tax Return
  - Other relevant information
  - Borrower’s mailing address and telephone numbers
  - The above information should be mailed to the Special Assistance Section of CSC, whose mailing address and fax number should be obtained from the most recent CSC Mail Guide.