



Committed to the future of rural communities.

**United States Department of Agriculture  
Rural Development  
California  
www.rurdev.usda.gov/ca**

## **LENDER SERVICING RESPONSIBILITIES**

March 29, 2004

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

The lender is responsible for servicing the entire B&I loan (both guaranteed and unguaranteed portion) in a prudent manner. The responsibilities of the lender are more fully set forth in the Lender's Agreement governing the B&I guarantee and in RD Instruction 4287-B. The 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

#### **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

Although loan servicing is the lender's primary responsibility,

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

- ⇒ semiannually -- as of 6/30 and 12/31-- on the loan's status and remaining balance (use Form 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 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 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
- ⇒ prior to any liquidation action when cumulative protective advances exceed \$5,000

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