



FAQ'S ON THE B&I ANNUAL RENEWAL FEE Business & Industry (B&I) Guaranteed Loan Program

On October 3, 2005, USDA Rural Development instituted an **annual renewal fee** for all new B&I guaranteed loans. (See *Federal Register*, Vol. 70, No. 190, pp. 57483-57486, October 3, 2005.) The renewal fee is charged by USDA in addition to the initial B&I guarantee fee (typically 2%) that must be paid prior to issuance of the B&I Loan Note Guarantee.

Does the annual renewal fee affect pre-existing B&I guaranteed loans?

No. The annual renewal fee applies only to B&I loans that are approved (i.e., the Conditional Commitment was issued) by USDA on or after October 3, 2005. There is no renewal fee for B&I loans whose Conditional Commitments pre-date October 3, 2005.

How much is the annual renewal fee?

The fee is calculated based on (a) the guaranteed principal owing on the B&I loan as of December 31 and (b) a fee percentage set by the Administrator of USDA Rural Business-Cooperative Service in an annually published notice in the *Federal Register*. [The annual fee for B&I loans made in FY2007 is 0.25%](#). (See *Federal Register*, Vol. 72, No. 10, p. 1979, January 17, 2007.) Once established on a given loan, the fee remains fixed at that level for the life of the loan. In FY2007, all B&I loans approved at the standard 80% guarantee will carry a renewal fee equal to 0.20% of the principal (0.25% of 80% = 0.20%) calculated as of each December 31 the loan remains outstanding. FY2007 loans with a 70% guarantee have a 0.175% renewal fee (0.25% of 70% = 0.175%).

How does the B&I annual renewal fee compare to the SBA 7(a) on-going annual servicing fee?

The annual renewal fee for B&I loans made in FY2007 is 0.25%, is paid annually, and is based on the unpaid principal balance as of calendar year-end, December 31. The SBA 7(a) on-going annual servicing fee in FY2007 is 0.55%, is paid monthly, and is based on the unpaid principal balance at each month-end.

Who is responsible for paying the fee?

The lender is solely responsible for payment of the fee regardless of whether the guarantee has been sold on the secondary market or not. Note that this differs from the SBA 7(a) program's monthly fee, where Colson Financial Services takes over responsibility for payment of the SBA fee when a 7(a) guarantee is sold on the secondary market. Since the B&I program has no fiscal transfer agent, the lender remains responsible for seeing that the fee is paid.

When is the annual renewal fee due?

The renewal fee, computed using the December 31 principal balance, is due to USDA by January 31.

Is the first annual renewal fee pro-rated based on when the guarantee is issued?

There is no pro-ration of the renewal fee – regardless of whether a B&I guarantee is issued early or late in the calendar year, B&I loans are assessed the same fee based on their December 31 principal balance. The only exception to this is for B&I guarantees issued in the last quarter of the calendar year (October 1 to December 31); these are not required to pay a renewal fee until the end of the following calendar year. So, if 3 B&I guarantees were issued on January 2, September 30, and October 1, respectively, the first two are required to pay the same renewal fee at year's end, but the last one skips the renewal fee until the following year.

How should lenders arrange for the accumulation of the annual renewal fee?

USDA does not require lenders to adopt any particular method for funding the renewal fee or to maintain a renewal fee account. A lender may elect to absorb the added cost of the fee, or a lender may increase the interest rate on the B&I loan in order to assure that sufficient funds are available to pay the fee when it is due. A lender may wish to set up and fund a renewal fee account at loan closing along the lines of a mortgage tax-&-insurance escrow account; the balance in the account could then be funded from a portion of monthly payments received from the B&I borrower. Depending on how late in the year the guarantee is received, it may be desirable to pre-fund such an account at loan closing so that there will be sufficient funds on deposit when the first renewal fee is due. Proceeds from the B&I loan may be used to fund such an account, just as loan proceeds may be used to pay the initial B&I guarantee fee. Since there is no required method, each lender can design its own system.

How will the mechanics of USDA's collection of the annual renewal fee work?

USDA Rural Development has developed a secure web-based system whereby lenders can report the principal, interest, and status of their B&I loans as of December 31. The system will then calculate the renewal fee due on each loan, if any, and the fee will then be electronically transferred from a bank account on a date specified by the lender.

What happens to a lender if the annual renewal fee is not paid?

Although the renewal fee is due on January 31, it is not considered delinquent until April 1. If the fee is not paid by April 1, one of two things may happen. First, the delinquent renewal fee will begin bearing interest at the B&I loan's note rate until such time as the delinquent fees plus interest are paid to USDA. Second, so long as any fee delinquency exists, USDA may at any time and at its sole discretion cancel the guarantee *as to the lender only*. If USDA elects not to cancel the guarantee and if a loss claim is ultimately submitted, delinquent fees with interest will be deducted from any loss payment due the lender. It is also important to note that a lender is prohibited from selling a B&I guarantee on the secondary market if there are unpaid renewal fees because such a loan is in technical violation of the B&I Lender's Agreement.

What happens to a secondary market holder if the annual renewal fee is not paid?

If a B&I guarantee has been sold on the secondary market, the holder who has purchased the guarantee is not responsible for payment of the renewal fee; this is solely the lender's obligation. Therefore, nonpayment of the renewal fee does not alter the enforceability of the guarantee as to the holder. USDA will continue to honor the guarantee as to the holder regardless of whether renewal fees are unpaid, renewal fees become delinquent, or USDA cancels the guarantee as to the lender.

More information at: <http://www.rurdev.usda.gov/or/rbs.htm> or contact Oregon's B&I staff:

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