

§ 3550.59

unexpired term of the lease must be at least 2 years longer than the loan term. In no case may the unexpired term be less than 25 years.

(c) *Life estate interest.* To be acceptable a life estate interest must provide the borrower with rights of present possession, control, and beneficial use of the property. Generally, persons with any remainder interests must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(d) *Undivided interest.* All legally competent co-owners will be required to sign the mortgage. When one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) *Possessory rights.* Acceptable forms of ownership include possessory rights on an American Indian reservation or State-owned land and the interest of an American Indian in land held in severalty under trust patents or deeds containing restrictions against alienation, provided that land in trust or restricted status will remain in trust or restricted status.

§ 3550.59 Security requirements.

Before approving any loan, RHS will impose requirements to secure its interests.

7 CFR Ch. XXXV (1-1-20 Edition)

(a) *Adequate security.* A loan will be considered adequately secured only when all of the following requirements are met:

(1) RHS obtains at closing a mortgage on all ownership interests in the security property or the requirements of § 3550.58 are satisfied.

(2) No liens prior to the RHS mortgage exist at the time of closing and no junior liens are likely to be taken immediately subsequent to or at the time of closing, unless the other liens are taken as part of a leveraging strategy or the RHS loan is essential for repairs and the senior lien secures an affordable non-RHS loan. Liens junior to the RHS lien may be allowed at loan closing if the junior lien will not interfere with the purpose or repayment of the RHS loan. When the junior lien involves a grant or a forgivable affordable housing product, the total debt may exceed the market value by the amount of the forgivable loan or grant up to 5 percent.

(3) The provisions of 7 CFR part 1927, subpart B regarding title clearance and the use of legal services have been followed.

(4) Existing and proposed property improvements are totally on the site and do not encroach on adjoining property.

(b) *Guaranteed payment.* Mortgage insurance guaranteeing payment from a Government agency or Indian tribe is adequate security.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78330, Dec. 24, 2002]

§ 3550.60 Escrow account.

RHS may require that customers deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) (12 U.S.C. 2601, *et seq.*) and section 501(e) of the Housing Act of 1949, as amended.

§ 3550.61 Insurance.

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of \$15,000 at the time of loan approval must furnish and continually

maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a "loss payable clause" payable to RHS to protect the Government's interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower's outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured indebtedness. If the borrower fails, or is unable, to insure the secured property, RHS will force place insurance and charge the cost to the borrower's account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage will generally be the property's last known insured value.

(c) *Flood insurance.* Flood insurance must be obtained and maintained for the life of the loan for all property located in a Special Flood Hazard Area (SFHA) as determined by the Federal Emergency Management Agency (FEMA). RHS actions will be consistent with 7 CFR part 1806, subpart B which addressed flood insurance requirements. If flood insurance through FEMA's National Flood Insurance Program is not available in an SFHA, the property is not eligible for federal financial assistance.

(d) *Losses.* (1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current industry standards and local market conditions.

(2) Customers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) Depending on the amount of the loss, RHS may require that loss payments be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected,

and paid for in accordance with 7 CFR part 1924, subpart A.

(4) When insurance funds remain after all repairs, replacements, and other authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Past-due amounts.

(iii) Protective advances due.

(iv) Released to the customer if the RHS debt is adequately secured.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the Government's interest.

(v) Accelerate the account.

[61 FR 59779, Nov. 22, 1996, as amended at 70 FR 6552, Feb. 8, 2005; 73 FR 49592, Aug. 22, 2008]

§ 3550.62 Appraisals.

(a) *Requirement.* An appraisal is required when the debt to be secured exceeds \$15,000 or whenever RHS determines that it is necessary to establish the adequacy of the security. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices. When other real estate is taken as additional security, it will be appraised if it represents a substantial portion of the security for the loan.

(b) *Fees.* RHS will charge a fee for each loan application that requires an appraisal, except the appraisal fee is not required on appraisals done for subsequent loans needed to make minimal, essential repairs or in cases where another party provides an appraisal which is acceptable to RHS. Fees collected in connection with a dwelling