

FmHA AN No. 2055 (1965)

February 16, 1990

SUBJECT: Lease of Real Estate Security

TO: State Directors, District Directors and
County Supervisors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance to field offices and provide consistency nationwide regarding Farmer Programs (FP) borrower's leasing their real estate property that is also security for their Farmers Home Administration (FmHA) debts. The intended outcome is to have uniformity in the servicing of real estate security.

COMPARISON WITH PREVIOUS AN:

This AN replaces FmHA AN No. 1385 which expired on April 30, 1987.

IMPLEMENTATION RESPONSIBILITIES:

Section 1965.17 of FmHA Instruction 1965-A should be followed when an FP borrower proposes to, or actually does, lease real estate securing the FmHA debt. Section 1965.17(a) provides that in cases where the borrower leases real estate security for "more than three years or with an option to purchase, the County Supervisor will normally initiate liquidation action in accordance with Section 1965.26(b)." In such cases the fact that the lease has been entered into can be used as a reason for initiating liquidation.

There may be times, however, under unusual circumstances when FmHA actually wishes to approve a lease. The only time that FmHA needs to take action to approve a lease is if the lease is for

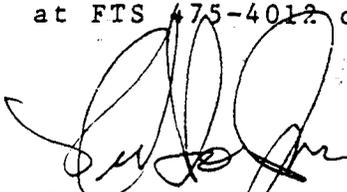
EXPIRATION DATE: February 28, 1991

FILING INSTRUCTIONS
Preceding FmHA
Instruction 1965-A

more than three years and/or contains an option to purchase and FmHA wants to continue with the borrower. If the County Supervisor believes FmHA should consent to a lease arrangement for more than three years or any lease with an option to purchase, prior approval of the Assistant Administrator, Farmer Programs, or the Administrator, if a Single Family Housing Loan is secured by the same security, is required. Primary loan servicing including write down under FmHA Instruction 1951-S can be approved in instances where the borrower's Farm and Home Plan contains a lease which does not exceed 3 years and/or does not have an option to purchase or contains a lease which has been approved by FmHA.

If the real estate security being leased is leased for less than three years and/or does not have an option to purchase FmHA will not take action to liquidate the account based solely on the borrower's leasing the property. However, if the borrower is no longer in any way involved in operating the farm as set forth in Section 1965.26(d) of FmHA Instruction 1965-A or the lease exceeds 3 years and/or contains an option to purchase, then FmHA can take action to initiate liquidation in accordance with FmHA Instruction 1951-S. The reason given on Exhibit A to Subpart S, Attachment 3 should be, "You have stopped farming or ranching. This is a violation of your loan agreement." Please keep in mind that for servicing under FmHA Instruction 1951-S that lease income is considered farm income and the borrower is considered farming unless the lease exceeds 3 years and/or contains an option to purchase.

If you have any questions, please contact David R. Spillman of Farmer Programs Loan Servicing and Property Management Division at FTS 475-4012 or commercial (202) 475-4012.



NEAL SOX JOHNSON
Acting Administrator

Sent by Time Delay Option to States at 11:00 on 2/20 ; to Districts at 1:00 on 2/20; and Counties at 3:00 on 2/20 by ASD.