

PROCEDURE REFERENCE : FmHA Instruction 1955-A

PURPOSE : Format for notice of acceleration to MFH borrowers
discharged in bankruptcy who have not reaffirmed
the debt.

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
(Location)

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

(Name and Address)

SUBJECT: NOTICE OF ACCELERATION OF YOUR FARMERS HOME
ADMINISTRATION ACCOUNT AND NOTICE OF YOUR OPPORTUNITY
TO HAVE A HEARING CONCERNING THIS ACTION.

Dear:

PLEASE TAKE NOTE that the Farmers Home Administration intends to enforce its real estate [mortgage(s), deed(s) of trust, etc. given or assumed by you as security for the following-described promissory note(s) and/or assumption agreement(s):

<u>Date of Instrument</u>	<u>Amount</u>
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The security instrument(s) referred to above are described as follows:

Recorded In:

<u>Date of Instrument</u>	<u>Place of Recordation</u>	<u>Book No.</u>	<u>Page No</u>
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The decision to foreclose is made in accordance with the authority granted in the above-described real estate instrument(s) for the following reason(s):

[If the account is in monetary default, list this as one reason for accelerating. If the account is not in monetary default, see §1955.15 (d) (2) (ii) of FmHA Instruction 1955-A.]

The balance of the account amounts to \$_____ unpaid principal, and \$_____ unpaid interest, as of _____ 19____ plus additional interest accruing at the rate of \$_____ per day thereafter, plus any advances to be made by the United States for the protection of its security, and the interest accruing on any such advances.

Unless full payment of this account is received and all actions outlined in the attachment entitled "Tenant Protection Actions" are taken within 30 days from the date of this letter, the United States will take action to foreclose under the authority granted (08-20-93) SPECIAL PN

in the above described instrument(s), take possession of any project accounts, suspend any rental assistance, cancel any interest credit, notify tenants that foreclosure will be pursued, and pursue any other available remedies. Project rent rate levels may not be increased due to loss of subsidies. Payment should be made by cashier's check, certified check, or postal money orders, to the order of the Farmers Home Administration at your local servicing office. The FmHA Servicing Office should be contacted immediately to discuss the steps to take to remedy the deficiencies in the account or pay the loan in full.

If you do not comply with all requirements to prepay, or do not submit to the United States any payment sufficient to pay the account in full, or comply with any arrangements agreed to between the Farmers Home Administration and yourself, the action or payment WILL NOT CANCEL the effect of this notice. Acceptance of such payment will be subject to Agency regulations governing payments in full [and the provisions of the Housing and Community Development Act of 1987. Such provisions normally require restrictive-use covenants be placed in effect at the time of prepayment.] NOTE: The preceding within brackets will be omitted for projects whose loans were made before December 21, 1979, unless less than one year has elapsed since the date the borrower had submitted a request to prepay the loan(s) under the provisions of FmHA Instruction 1965-E. If insufficient payments are received and credited to your account, or payment without tenant displacement actions are accepted, no waiver or prejudice of any rights which the United States may have for breach of any promissory note or covenant in the real estate instrument will result and the Farmers Home Administration may proceed as though no such payment had been made.

[The above-described real estate instrument provides that the United States may foreclose without Court action by selling the real estate at public sale after (a minimum of 180 days). The Government intends to sell the property in this manner. No further notice is required to be given you concerning this foreclosure.]

(This paragraph will be omitted in States with judicial foreclosure or where it conflicts with State law.)

However, you have the opportunity to have an informal meeting with the decision maker (the undersigned) and/or an administrative appeal hearing before the foreclosure takes place. This is an opportunity to discuss why you believe the United States is in error in accelerating your account(s) and proceeding with foreclosure. If you desire to have an informal meeting with the decision maker or have any questions concerning the decision and/or facts used in making our decision, you should contact this office in writing to request a meeting. The request for an informal meeting must be sent to the undersigned no later than (give date 15 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. You also have the right to an administrative appeal hearing with a hearing officer in lieu of, or in addition to, a meeting with this office. If

you request an informal meeting with the decision maker, and the meeting does not result in a decision in which you concur, you will be given a separate time frame in which to submit your request for an administrative appeal. See the attachment for your appeal rights.

If you do not wish to have an informal meeting with the decision maker as outlined above, you may request an administrative appeal hearing with a member of the National Appeals Staff. The request for an administrative appeal must be sent to the National Appeals Staff, Area Supervisor, (show complete mailing address), no later than (give date 30 days after the mailing of the letter). Requests which are postmarked by the U.S. Postal Service on or before that date will be considered as timely received. If requesting an administrative appeal, please include a copy of this letter with your request.

If you fail to comply with the requirements outlined herein, the United States plans to proceed with foreclosure.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

UNITED STATES OF AMERICA

BY _____

[*
Farmers Home Administration
United States Department of
Agriculture

Date: _____

Attachments

*Insert title of FmHA official authorized in S1955.15 of FmHA Instruction 1955-A to accelerate the account, depending on loan type.

[NOTE: Send original to borrower and carbon copy to each party having an ownership interest based on the latest information contained in Agency records, unless OGC advises otherwise. Also send copy to National Office, ATTN: MFH/SPM.]

[Attach a copy of Exhibit B-1 of FmHA Instruction 1900-B and "Tenant Protection Actions"]

TENANT PROTECTION ACTIONS

(1) Provide the FmHA Servicing Office with a current list of all tenants showing their adjusted incomes. The FmHA Servicing Office will:

(a) Notify tenants that the project is being prepaid;

(b) Send eligible tenants in the project Letters of Priority Entitlement (LOPE), for priority placement in other FmHA projects.

(2) Extend all tenant leases for 180 days after the date the accelerated loan was paid at the same rental rates and terms that were in effect on the day of the acceleration. (If tenant is receiving RA, the tenants' share of the rent will be reflected on the lease.)

(3) Execute restrictive-use provisions, as appropriate, for incorporation into releases of security instruments to be filed. (If the loan was made prior to December 21, 1979, no restrictive-use provisions will be included in the releases of security instruments, unless less than one year has elapsed since the date the borrower had submitted a request to prepay the loan(s) under the provisions of FmHA Instruction 1965-E.) (NOTE: Any tenants or applicants for occupancy protected by these restrictions may not have total shelter costs (rent and utilities) raised above 30 percent of adjusted income or current shelter costs, whichever is higher.) If the initial loan on this project, or any subsequent loan to build or acquire new units, was made on or after December 15, 1989, the restrictive-use provisions will remain for the term of the loan.