

RD AN No. 4672 (1980-E, 4280-B and 4287-B)
August 23, 2012

TO: State Directors, Rural Development
ATTN: Business Programs Directors
SUBJECT: Business and Industry Guaranteed Loan, Biorefinery Assistance, and Rural Energy for America Programs Lender Repurchase from the Secondary Market

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance to State Offices concerning lender's repurchase of a Business and Industry (B&I) guaranteed loan, Biorefinery Assistance Program (BAP), and Rural Energy for America Program (REAP) guaranteed loans from the secondary market.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4577(1980-E, 4280-B and 4287-B) dated June 3, 2011, which expired on May 31, 2012.

IMPLEMENTATION RESPONSIBILITIES:

When a lender sells a loan in the secondary market, it should be a "good faith" sale, i.e. the loan should be current and not in technical violation of covenants listed in the Loan Agreement. The lender should not sell B&I, BAP, or REAP guaranteed loans into the secondary market that do not meet this test.

According to the Guaranteed Loan System, a majority of B&I guaranteed loans have a variable interest rate. In the event that a B&I, BAP, or REAP guaranteed loan borrower becomes delinquent or is experiencing financial difficulties, a lender cannot modify the terms of a loan without the consent of the holder(s) and the U.S. Department of Agriculture.

EXPIRATION DATE:
August 31, 2013

FILING INSTRUCTIONS:
Preceding RD Instructions 1980-E,
4280-B, and 4287-B

RD Instruction 4287-B, section 4287.112, states that any interest rate reduction must be collectively initiated by the borrower, lender, and holder. The Agency anticipates that the lender will negotiate with a holder in good faith to resolve any disagreement concerning the administration of a loan under this program. With the exception of RD Instruction 4287-B, section 4287.112(a)(2), for the BAP program and 4287.112(a)(3), for the REAP program, the lender should abide by all conditions set forth in RD Instruction 4287-B, section 4287.112, when terms of the loan are to be modified.

The lender can repurchase the loan from the secondary market for servicing purposes. Form RD 4279-5, "Loan Note Guarantee," CONDITIONS OF GUARANTEE, paragraph 10, "Repurchase by Lender for Servicing," states: "If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less Lender's servicing fee."

The lender should repurchase a loan from the secondary market for servicing purposes when the loan is experiencing some financial difficulties, i.e. workout agreement, delinquent loan repurchased for restructuring purposes. The lender should not repurchase the loan from the secondary market solely to reduce the interest rate if the loan is not experiencing financial difficulties.

If we can be of further assistance, please contact the B&I Division, Servicing Branch, (202) 690-4103.

(Signed by John C. Padalino)

John C. Padalino
Acting Administrator
Rural Business-Cooperative Service