

25—4.9(175) Loan administration procedures.

4.9(1) Lender's responsibilities. The lender is responsible for servicing the participated loan following accepted standards of loan servicing and transferring participation payments to the authority.

a. The lender shall:

(1) On an annual basis, provide the authority with copies of a current financial statement or a current tax return, or both.

(2) Provide copies of insurance to the authority with the lender named as loss payee. Lender will apply payments to the participated loan on a pro-rata basis.

b. The lender shall not, without prior consent of the authority:

(1) Make or consent to any substantial alterations in the terms of any participated loan instrument;

(2) Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

(3) Lender will not use the collateral purchased with funds from the participated loan as security for any other loan without prior written consent of the authority;

(4) Accelerate the maturity of the participated loan;

(5) Sue upon any participated loan instrument;

(6) Waive any claim against any borrower, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

4.9(2) Payment due dates. Payment due dates for the participation will be the same as for the lender's share of the loan.

4.9(3) Prepayment penalty. There is no penalty for early repayment of principal or interest.

4.9(4) Repayment proceeds and collateral. Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

4.9(5) Subsequent loans. Any loan or advance made by a lender to a borrower subsequent to obtaining a participation under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

4.9(6) Events of loan default.

a. Default will occur when loan payment is 30 days past due. Notice to cure will be sent to borrower with a copy sent to the authority; and the lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

b. After a participated loan is in default for a period of 30 days, the lender shall file monthly reports regarding the status of the participated loan to the authority.

c. The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan in such case.

4.9(7) Applying principal and interest payments. Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

4.9(8) Application of proceeds of loan liquidation. Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the authority's loan committee. All amounts recovered upon liquidation or foreclosure will be applied first to the unpaid balance of the lender's portion and then to the unpaid portion of the participation's portion. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's participation;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.