

RD AN No. 4307 (1980-D)
September 10, 2007

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors
Guaranteed Rural Housing Specialists
Rural Development Managers, and
Community Development Managers

FROM: Russell T. Davis (Signed by Russell T. Davis)
Administrator
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program
RD Instruction 1980-D, section 1980.324
Lender Charges and Fees

PURPOSE/INTENDED OUTCOME:

The purpose of this AN is to clarify Agency requirements under RD Instruction 1980-D, section 1980.324(a) for routine charges and fees that lenders may charge borrowers. The Agency wishes to prevent lenders from charging excessive fees for guaranteed loans and to protect low- and moderate-income borrowers from paying excessive loan fees, or borrowing funds for fees that are not reasonable and customary. This AN does not apply to maximum interest rate requirements. Maximum interest rates should be handled according to RD Instruction 1980-D, section 1980.320.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4217 (1980-D) dated September 26, 2006.

EXPIRATION DATE:
September 30, 2008

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

The Agency does not require that all lenders charge fees that are like those of their competitors. Rather, individual Guaranteed Rural Housing (GRH) lenders are expected to assess charges and fees for GRH loans that are no greater than those they charge other applicants for similar type transactions. While most lenders comply with the requirements for charging fees that are reasonable and customary, cases have arisen where lender fees have been abnormally high. Lender charges and fees may generally consist of appraisal fees, attorney fees, broker fees, and other fees associated with originating and closing a Single Family Housing real estate loan.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 1980-D, section 1980.324(a) states that lenders “may establish the charges and fees for the loan, provided they are the same as those charged other applicants for similar types of transactions.”

Rural Housing Service considers loans guaranteed under the Single Family Housing Guaranteed Loan Program (SFHGLP) to be similar to loans insured or guaranteed by the Federal Housing Administration (FHA) or by the Department of Veterans Affairs (VA). Fees charged by a lender to borrowers for loans guaranteed under the SFHGLP should not exceed fees charged by the same lender for loans insured or guaranteed by the FHA or VA. Other high loan-to-value home mortgage products can also be used for comparison.

The Agency reviews loan applications for completeness and to determine whether the proposed loan is to an eligible applicant for an eligible loan purpose. If when reviewing loan applications the Agency determines that a lender proposes to charge fees or use loan funds to pay for fees that appear questionable or too high, the Agency should ask the lender to justify the fees prior to issuing the conditional commitment. A lender should be able to document that the charges or fees assessed against borrowers whose loans are guaranteed under the SFHGLP do not exceed charges or fees routinely made by the lender for similar transactions such as FHA or VA loans. Lender justifications should only be required when the Agency is reasonably certain that the fees being charged are not reasonable and customary, and, therefore, ineligible for GRH loan purposes.

In addition, during lender compliance reviews, GRH loan program settlement statements should be reviewed in an effort to ensure that GRH program borrowers are being charged fees that are reasonable and customary, including fees that may not have been part of the GRH loan amount. Lenders that are determined to be out of compliance should be counseled on the provisions of the regulation and monitored closely for future compliance. Failure to resolve the noncompliance may be considered in termination of lender eligibility under section 1980.309.

Should there be any comments or questions concerning this AN, please contact Dave Chaput or Joaquín Tremols at (202) 720-1452. Their respective email addresses are david.chaput@wdc.usda.gov and joaquin.tremols@wdc.usda.gov.