

RD AN No 4674 (1942-A and 3575-A)
September 10, 2012

TO: State Directors
Rural Development

ATTN: Community Programs Directors

FROM: Tammye Treviño (Signed by Tammye Treviño)
Administrator
Housing and Community Facilities Programs

SUBJECT: Direct and Guaranteed Loan Parity Lien Requirements

PROPOSED/INTENDED OUTCOME:

We have continued to receive inquiries requesting clarification of parity lien requirements. The purpose of this Administrative Notice (AN) is to clarify that when a Community Facilities (CF) direct loan and a guaranteed loan are made on the same project, a parity lien position will be required.

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4447 (1942-A and 3575-A), dated May 20, 2009, which expired on May 31, 2010.

IMPLEMENTATION RESPONSIBILITIES:

For clarification purposes, the reference to “another” or “other lender” in RD Instruction 1942-A, section 1942.17(g)(1), means a lender not receiving a Community Facilities (CF) guarantee. Whenever both a CF guaranteed loan and a direct loan are utilized to finance a CF project, we consider this financing to be all CF financing. As a matter of policy, we will only accept a parity lien. The National Office will consider an exception to this policy when statutory requirements specifically prohibit the lender from parity.

The Parity Agreement should specifically state if the proceeds of the security pledged will be shared equally. If the Parity Agreement is silent on the manner in which the proceeds from the security will be distributed, then the proceeds from the security pledged will be shared pro rata based on the amount of the outstanding loans.

The State Office should make the National Office aware at the earliest indication that the lender may request an exception to parity lien position. This will allow adequate time to review the circumstances and determine if we will consider the request.

If you have any questions concerning this AN, please contact Karen Safer, Community Programs, 202-720-0974.

EXPIRATION DATE:
July 31, 2013

FILING INSTRUCTIONS:
Preceding RD Instruction 1942-A
and 3575-A