**UNITED STATES DEPARTMENT OF AGRICULTURE**
Farm Service Agency
Washington, DC 20250

**Notice FLP-24**

1924-B, 1951-J, 1951-S

**For:** State and County Offices

# Amortization of Shared Appreciation Agreements (SAA)

**Approved by:** Acting Deputy Administrator, Farm Loan Programs

## 1 Overview

### A Background

FmHA Instruction 1951-S, section 1951.914 was revised on March 10, 1998, to allow the reamortization of shared appreciation as a nonprogram (NP) loan when the borrower cannot pay the required amount in a lump sum.

### B Purpose

This notice further explains application processing and security requirements for the amortization of a shared appreciation amount. All requirements and limitations as described by the instruction in subparagraph A must be observed. The shared appreciation amount due cannot be amortized if the amount is due because of acceleration, payment in full, satisfaction of the debt, or the borrower ceases farming.

## 2 Action

### A Application Receipt

A complete application for shared appreciation amortization will include:

- FSA-410-1
- records showing the borrower's actual income, production, and expenses, including income tax returns and supporting documents, for the most recent 5-year period

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| Disposal Date | Distribution |
|---|---|
| December 1, 1999 | State Offices; State Offices relay to County Offices |

## 2 Action (Continued)

**A Application Receipt (Continued)**

- FmHA 440-32 or other written verification of all debts and collateral
- the proper fee for a credit report
- any other items determined necessary by the approval official for the completion of a farm business plan.

If SAA is maturing, borrowers requesting to convert the SAA amount to an NP loan must submit a complete application within 30 calendar days of the Agency notification that a shared appreciation amount is due or at the maturity date of the agreement, whichever is later.

If SAA is triggered before maturity, the application must be complete within 30 calendar days of the notification that shared appreciation is due. A credit report, paid for by the applicant, will be obtained by the approval official.

When incomplete applications are received, the Agency shall:

- immediately notify the borrower in writing of all required items which have not been submitted
- remind the borrower of the final date on which all items can be submitted and still receive consideration.

If SAA is not paid by the due date or amortized as set forth in FmHA Instruction 1951.914(e), borrowers with program loans will be notified according to FmHA Instruction 1951.907(d). Borrowers who no longer have program loans will be notified according to FmHA Instruction 1951-J, section 1951.468.

**B Security Requirements**

A lien will be obtained on any remaining FSA security; or, if there is no security remaining, the best lien obtainable on any other real estate or chattel property sufficient to secure the note, if available. If the available security is insufficient to fully secure the shared appreciation amount, it can still be amortized if all other requirements are met. In these situations, it is in the best interest of the Government to allow the amortization and obtain the maximum recovery possible at NP rates and terms. This circumstance exists only for the amortization of shared appreciation amounts. All other NP loans must be fully secured.

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## 2 Action (Continued)

**B Security Requirements (Continued)**

If intervening liens or judgments exist on the property covered by SAA, and the amount to be amortized is not secured by the original security instrument referenced by the agreement, any intervening liens subsequent to FSA's shared appreciation mortgage, which were not approved by the Agency, must be subordinated to the Agency, or the shared appreciation amortization will be denied. If any question on the lien priority exists, the regional OGC must be consulted to ensure that the shared appreciation amortization retains the security position of the original notes identified on SAA.

**C Application Processing**

After receipt of a complete application, a farm business plan will be completed according to FmHA Instruction 1924-B. The term of the amortization should not exceed that which is required by the farm business plan to achieve a feasible plan as defined in FmHA Instruction 1951-S, section 1951.906(m). If a feasible plan can be developed and the applicant meets all requirements in FmHA Instruction 1951-S, section 1951.914(e), the shared appreciation amount due will be amortized with the use of amortization tables and processing will be completed as described FmHA Instruction 1951-J, section 1951.455, with the following exceptions.

- The maximum term of 25 years does not require SED approval.
- No downpayment is required.
- The amortized shared appreciation amount does not have to be fully secured.

If the application for amortization of the shared appreciation is to be denied, and the applicant has other program FSA loans, the applicant:

- is in nonmonetary default, as stated in FmHA Instruction 1951-S, section 1951.914(d)(2)
- will be notified as soon as possible after the due date according to FmHA Instruction 1951-S, section 1951.907(d).

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**Action (Continued)**

**C**
**Application Processing (Continued)**

If the application for amortization of the shared appreciation is to be denied, and the applicant has **no** other program FSA loans:

- shared appreciation amortization will not be offered
- the application will be denied, without appeal rights, using Guide Letter 1951-J-3 according to FmHA Instruction 1951-J, section 1951.454. An additional paragraph must be inserted that the applicant may seek an appealability determination from NAD.

**D**
**Contact**

If there are any questions, State Offices shall contact Michael Cumpton, LSPMD.