United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1336 (1962)

February 7, 1986

SUBJECT: Preparing and Revising Form FmHA 1962-1

TO: All FmHA State Directors, Farmer Program Chiefs, District Directors and County Supervisors

Purpose/Intended Outcome:

The purpose of this AN is to clarify the responsibilities of borrowers and County Supervisors in preparing, using and revising Form FmHA 1962-1. The intended outcome is to assist borrowers and FmHA staff when they are working with this form.

Comparison with Previous AN:

FmHA AN No. 1307 (1962), issued on December 12, 1985 also dealt with this form, but it did not have the same purpose or intended outcome.

Implementation Responsibilities

Preparing the Form:

The Security Agreement which FmHA borrowers sign provides that borrowers will obtain FmHA's prior written consent before disposing of chattel security. Form FmHA 1962-1 provides the prior written consent for borrowers to sell chattel security as stated on the form and to use the proceeds in the amount and for the purposes listed on the form. The form covers only the release of proceeds from FmHA chattel security, including crops. County Supervisors should explain to borrowers that the process for completing a Form FmHA 1962-1 is the same process used in completing the Farm and Home Plan, and that Form FmHA 1962-1 is intended to describe the borrower's operation and not place restrictions on the operation. As when completing the Farm and Home Plan, borrowers are expected to examine their records and operations carefully in order to complete the Form FmHA 1962-1. Borrowers should be told that the sale dates, quantities to be sold and expected amount of proceeds are projections only, and that FmHA realizes it is not possible to predict the exact number of bushels of corn which will be harvested or the exact day calves will be sold, for example. FmHA expects that borrowers will make their projections as accurate as they can by using their farm records and their experience in analyzing their operations and available markets. A borrower who raises feeder pigs should know how many sows are bred and the average

EXPIRATION DATE: February 28, 1987

FILING INSTRUCTIONS: Preceding FmHA Instruction 1962-A litter per sow, and should be able to use this information to show planned sales of 100 pigs in January and February, 100 in March and April, etc. Each individual pig does not have to be listed and exact sale dates are not expected to be listed.

County Supervisors should also inform borrowers that the list of purchasers is a list of potential purchasers. If there are two convenient grain elevators or auction barns which the borrower might use, both should be listed. While borrowers are expected to be as specific as possible, FmHA recognizes that borrowers do not always know in advance who will buy their products. In such cases, the form should be completed to show the manner in which farm products will be sold. For example, if a borrower sells produce at a roadside stand or sells hay to neighboring farms, complete the form to show that the products will be sold at a roadside stand or to residents of a certain county. However, most borrowers have a few regular customers and these customers should be listed on the form. The County Supervisor should explain that this information is necessary to enable FmHA to protect its security interest in the property.

Borrowers should be told that, if anyone makes a request to see their FmHA files, it will be FmHA's policy not to release Form FmHA 1962-1 (see FmHA Instruction 2018-F, § 2018.259(b)(2)).

Ideally, the County Supervisor and the borrower will work together to complete the form. If the borrower is going to try to complete the form away from the County Office, the borrower should be given a copy of the FMI to the form and a copy of this AN. (In some cases, the District Director will become involved in completing the form.)

Revising the Form:

The most common types of revisions which will be made to Form FmHA 1962-1 are these four:

1. Borrowers who want to sell, exchange or consume property or to use proceeds in a way not shown on the Form FmHA 1962-1 must obtain the prior consent of the County Supervisor. For example, if a borrower had planned to sell feeder calves but decides to hold them to slaughter weight, the prior consent of FmHA is necessary. A borrower must obtain prior consent to use proceeds to pay a feed bill if the proceeds were supposed to be used for some other purpose. The same is true if a borrower had planned to sell a crop and decides to place it under CCC loan or decides to feed it directly to livestock. The County Supervisor must give permission for the requested change if the conditions set out on the Form FmHA 1962-1 and in § 1962.17(b) are met. These conditions should be reviewed with the borrower who asks for permission to use property or proceeds in a way different from what was planned. If the County Supervisor cannot approve the requested change, the borrower must be told which of the conditions on the Form FmHA 1962-1 or in § 1962.17(b) cannot be met.

2. After a planned sale is made, the borrower must inform the County Supervisor if the amount received was different than the amount shown on the Form FmHA 1962-1. Borrowers are not required to check with FmHA before making a planned sale just because the price the borrower expects to receive on the sale date is less or more than the price the borrower had planned to receive.

3. Borrowers who make a change in their operation must obtain prior approval of the change from the County Supervisor. An example of a change in operation is a borrower who decides to stop dairy farming and begin raising feeder steers.

4. Borrowers who decide to sell to someone other than a purchaser on the list do not need to get prior approval from FmHA. However, they must promptly notify the County Supervisor of the new purchaser in advance of the sale, if practicable. The purpose of this is to enable FmHA to protect its security interest.

Any change to the Form FmHA 1962-1 requires that form to be revised and the revision has to be dated and initialed by both the County Supervisor and the borrower. It is the borrower's responsibility to obtain FmHA's prior consent to the changes mentioned in paragraphs 1 and 3 above and to notify FmHA if the amount of proceeds received from a planned sale is more or less than was expected. The borrower may fulfill this responsibility in several ways:

1. The borrower may telephone the County Office.

2. The borrower may write the County Supervisor a letter.

3. The borrower may come into the County Office.

4. The borrower may use any other method he or she chooses.

The County Supervisor will have to decide whether the borrower needs to come into the County Office to make the revision or whether the revision can be made in some other way. Changes which materially affect the borrower's operation will almost always require the borrower to visit the County Office so that the County Supervisor and the borrower can complete a new farm plan and make necessary revisions to the Form FmHA 1962-1.

Other revisions may be agreed to over the telephone. If this is done, the County Supervisor should revise the form in the borrower's case file, initial and date the change and mark the form "Revised." The County Supervisor will then have to decide whether to write to the borrower and confirm the revision; this may be done by a letter or by sending a copy of the "Revised" form to the borrower. If the County Supervisor sends the borrower a copy of the form, the County Supervisor might decide to ask the borrower to date and initial the change and return the form to the County Office. If this is not done, the County Supervisor will ask the borrower to date and initial the change the next time the borrower is in the County Office.

Whenever a Form FmHA 1962-1 is revised, the County Supervisor should consider whether the change requires the loan to be considered for rescheduling, reamortization or deferral.

Vance L. Clark

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Administrator