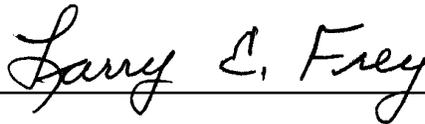


For: County Offices

Notification to Borrowers, Cosigners, and Guarantors

Approved By: State Executive Director

LEF:LEV:lv



1 Overview

**A
Background**

As required by Section 1951.907 of FmHA Instruction 1951-S, borrowers 90 calendar days past due should receive 1951-S primary loan servicing packages:

- within 15 calendar days from the date the Finance Office Monthly Status Report of FLP Borrowers (Report Code 540) is received
- if non-monetary default is involved, within 15 calendar days from the date the Agency determines the borrower is in non-monetary default.

**B
Purpose**

The purpose of this Oregon Notice is to remind FSA employees of:

- the contents of Notice FLP-128
- the need to provide notification all persons liable for the FSA indebtedness
- the requirement to place a complete copy of the Primary Loan Servicing package mailed to liable parties in the borrower's case file
- the requirement to initialize each defaulted borrower in the Servicing portion of the MAC system as Primary Loan Servicing notices are sent.

**C
Contact**

Address questions about this Oregon Notice to the Lynn Voigt in the STO.

FILING: Preceding FmHA Instruction 1951-S

Disposal

Distribution

July 1, 2001

STO, DD, COR, COC, COF - Including Farm Loan Programs

2 Action

A

Primary Loan Servicing Packages

Notice FLP-128 was issued by the National Office on April 28, 2000. It has not expired. It continues to provide guidance for use in mailing FmHA Instruction 1951-S Primary Loan Servicing notice packages to borrowers who are 90 or more calendar days past due in their FLP loan installments, or are in non-monetary default.

Note: FmHA Instruction 1951-S Primary Loan Servicing packages are *not* sent to borrowers only indebted for FLP Non-Program loans. Non-Program borrowers are, however, initialized into the Distressed or Delinquent - Direct portion of the MAC system.

Primary Loan Servicing notice packages must be sent by Certified Mail - Return Receipt Requested to the borrower's and cosigner's last known address, or personally hand delivered by an FSA employee to liable parties.

B

Notice to All Liable Parties

All persons liable for the delinquent or defaulted FLP debt must be provided with notice of their Primary Loan Servicing rights as required by both statute and regulation. Care must be taken to assure that all liable parties do receive proper notice.

Proper notice to a liable party will generally include one of the following Primary Loan Servicing notice packages:

- Exhibit A of FmHA Instruction 1951-S with Attachments 1 and 2
- Attachments 1, 3, and 4 of Exhibit A of FmHA Instruction 1951-S
- Exhibit A of Notice FLP-128 with Attachment 1 of Exhibit A of FmHA Instruction 1951-S

Follow the guidance provided in Sections 1951.907 (a) through (d) of FmHA Instruction 1951-S and Subparagraph 2 B of Notice FLP-128 when determining the appropriate Primary Loan Servicing notice package to use in providing the required notification.

Continued on the next page

Oregon Notice FLP-79

2 Action, *Continued*

C

Retain Copy of Notice Package

A complete copy of the Primary Loan Servicing Package sent to each liable party **must** be retained for FSA's records. The green "return receipt" documenting delivery or refusal of the Certified Mail must also be attached and retained with each complete file copy.

The retained file copies (Exhibit A of FmHA Instruction 1951-S with Attachments 1 and 2; Attachments 1, 3, and 4; or Exhibit A of Notice FLP-128 with Attachment 1), **must** be made part of the borrower's case file, and should be placed in the correspondence position of the file, (Position 4). The Notice Packages are voluminous, and may be placed in the borrower's 2 of 2 file as appropriate or when the Primary Loan Servicing action is completed.

Note: It is not acceptable to file one "master set" of Primary Loan Servicing notice packages as an example of what is mailed to each borrower. FSA must be able to produce an exact copy of the notice package mailed to each liable party in the event of litigation.

FSA's retained file copy need not contain copies of the blank forms (i.e. Forms FSA 440-32 and RD 1910-5) included with the notice package.

If a Primary Loan Servicing package is returned because a liable party refuses to accept delivery, do not open the returned notice package. Simply file it with the retained file copies, and mail another Primary Loan Servicing package to the liable party's last known address by regular mail. Again, a complete copy must be retained for the Agency's records.

Continued on the next page

2 Action, Continued

D

**Initialize Borrower
in Servicing
Portion of MAC
System**

All borrowers who are sent Primary Loan Servicing packages must be initialized in the "Distressed or Delinquent Servicing - Direct" option of the MAC system through entry in the appropriate servicing category. This entry should be made the same day as the Primary Loan Servicing package is sent or hand delivered to the borrower.

Generally speaking, a borrower will normally be entered into one of the following categories:

CAT020 - 90 Days Past Due

CAT220 - Borrower in Non-Monetary or Monetary and Non-Monetary Default

CAT150 - Bankruptcy

CAT310 - Delinquent Non-Program Borrower

Note: See Section 2 of Part 5 of the MAC Training Manual (beginning on Page 5-103) for further information and details of data entry.

Every delinquent borrower shown in the 90 days or more past due category of your Report Code 540 should be found in the MAC system.

The "Distressed or Delinquent Servicing - Direct" option of MAC is a process guidance or "leading" system. It tells us the appropriate steps we must follow to comply with statutory and regulatory requirements. It is not a hindsight data entry or "tracking" system in which to enter historical data after actions have been taken independent of the MAC system.

Use the MAC system to lead you through the Primary Loan Servicing process with each delinquent or defaulted borrower. Always keep a copy of the borrower's current activity report on the top of Position 3 in the borrower's case file as a reminder of the next step to be taken, and the due date for completion of that step.

E

**Incomplete
Response to
1951-S Notice**

Section 1951.907 (e)(5) of FmHA Instruction 1951-S lists the information borrowers must provide for a complete application. If a complete application is not submitted, Section 1951.907 (e)(1) lists required notification actions. Subparagraph 2 D of Notice FLP-128 provides additional information.

Do not accept applications as being complete when they are not. Borrowers do not have a right to repeatedly submit revised Farm and Home Plans after the application deadline in an effort to achieve a particular outcome. Only a Conservation Contract can be requested after the 60-day application deadline.
