

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency  
Washington, DC 20250

Farm Storage Facility Loan Program  
1-FSFL (Revision 1)

Amendment 9

Approved by: Acting Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Paragraph 24 has been amended to change the additional security requirement loan limit to \$50,000.

Subparagraph 24 N has been amended to clarify the downpayment required for aggregate outstanding FSFL balances.

Subparagraph 28 B has been amended to update the partial disbursement example.

Subparagraph 115 A has been amended to change the loan limit to less than \$50,000 for the approving authority to determine whether the structure has no resale value.

Subparagraph 127 B has been amended to change the loan amount for which instructions in subparagraph A may be followed for loans of \$50,000 or less.

Subparagraph 130 B has been amended to change the additional security requirement loan limit to \$50,000, and when a severance agreement is not required.

| Page Control Chart |  |         |
|--------------------|--|---------|
| TC                 | Text   | Exhibit |
|                    | 2-29, 2-30<br>2-35, 2-36<br>2-36.3, 2-36.4<br>2-41, 2-42<br>6-1, 6-2<br>7-3, 7-4<br>7-21, 7-22 |         |



**24 Security for FSFL's****A Secured by CCC-186's**

[7 CFR 1436.8] All FSFL's shall be secured by CCC-186 covering the farm storage facility. CCC-186 shall:

- grant CCC a security interest in the collateral
- be executed as required by State law where the collateral is located.

**B Prior Liens on Real Estate**

CCC's security interest in the **collateral**, such as the actual storage structure, shall constitute the sole security interest in collateral. If prior liens on the underlying real estate attach to the collateral, County Offices shall:

- unless waived by regional OGC, obtain CCC-297 from each prior or superior lienholder and each person, including the borrower, having an interest in the real estate on which the collateral is located **before** FSFL closing and disbursement and **before** the partial disbursement, if applicable

**Notes:** CCC-297 shall be filed with the appropriate county real estate records **before** FSFL closing.

See paragraph 130 and Exhibit 10 for more details.

- **not** allow any additional liens or encumbrances to be placed on the storage facility after FSFL is approved unless CCC approves otherwise in writing.

## 24 Security for FSFL's (Continued)

## C Additional Security Requirements

Additional security is required if any of the following apply:

- \*--FSFL amount exceeds \$50,000
- the aggregate outstanding FSFL balance exceeds \$50,000

**Note:** The aggregate outstanding FSFL balance is the sum of the outstanding balances of **all** FSFL's disbursed to borrowers signing CCC-186.

**Examples:** The producer has an outstanding FSFL for \$45,000 and requests a new FSFL for \$10,000. Additional security is only required to secure the new or \$10,000 FSFL.

A 2-person partnership requests FSFL for \$55,000. FSFL is made to the partnership because the partnership is the farming entity. Additional security is needed as **FSFL** exceeds \$50,000.

- COC determines, as a result of financial analysis, that additional security is required

Additional security may be required for FSFL's with an aggregate outstanding FSFL balance equal or less than \$50,000, if STC or COC determines that the structure has no resale--\* value. See subparagraph 24 N for guidance.

**Note:** COC shall determine resale collateral value based on local market conditions.

A lien on the real estate that includes the land where FSFL will be located is the preferred additional security.

FSFL's will be adequately secured when the real estate security for FSFL is at least equal to the FSFL amount.

For FSFL amounts secured by real estate, CCC's interest in the real estate shall be superior to all other lienholders. If the real estate is covered by a prior lien, a lien subordination may be obtained by a form approved for use in the State by the regional attorney.

**Exception:** If FSA holds a superior lien on applicable real estate through an FLP loan, subordination is **not** required. However, a junior real estate lien is **required**.

## 24 Security for FSFL's (Continued)

**L Partial and Final FSFL Closings Using Real Estate as Additional Security**

When real estate is used for the required additional security for the:

- partial disbursement, security applicable to the partial disbursement amount will be required **before** the partial disbursement FSFL closing
- final disbursement, security applicable to the total FSFL amount will be required **before** FSFL closing.

**Examples:** The following is an example of FSFL with both partial and final disbursements and the security required for each.

\*--FSFL is approved for \$55,000. Half the facility is constructed and a partial disbursement is requested for \$27,500. UCC-1 has been filed on the structure, but additional security is **not** required when the \$27,500 partial disbursement is closed. When the final FSFL disbursement is made, additional security for both FSFL's totaling \$55,000 is **required**.

The following is an example of FSFL with both partial and final disbursements where additional security is required.

FSFL is approved for \$100,000. Half the facility is constructed and a partial disbursement is requested for \$50,000. Additional security is required for the \$50,000 partial disbursement and for the \$50,000--\* final disbursement. The following options are available to the borrower:

- present 2 separate real estate mortgages, 1 for the partial disbursement and another for the final disbursement
- present 1 real estate mortgage to secure both the partial and final disbursement at the time of the partial disbursement, if possible according to the laws in the State. Check with the regional OGC to ensure that this is possible.

## 24 Security for FSFL's (Continued)

**M Applying Value to FSFL Structure Separate From Real Estate**

When FSFL real estate security is separate from FSFL collateral, the County Office may apply a value of no more than **20** percent of the loan amount to the structure if **all** of the following apply:

- CCC-297 is obtained from the owners of the real estate on which FSFL structure is located severing the FSFL structure from the real estate

**Note:** Unless State law, as determined by the regional OGC, makes using CCC-297 unnecessary, **and** CCC is adequately protected without CCC-297.

- UCC-1 is filed on FSFL structure giving CCC first lien position
- FSFL structure **must** have resale collateral value according to subparagraphs C and N.

See Exhibit 12 to determine the value of real estate security separate from the FSFL facility.

**N Resale Collateral Value**

County Offices, with assistance from an FLP loan approval official, when required by subparagraph C, shall determine resale collateral value based on local market conditions and depreciation factors.

In most cases, the resale collateral value will **not** equal the outstanding loan value if the collateral is moved or sold and will be less than its fair market value. The resale collateral value **must** be a reasonable price that CCC can expect to receive if the loan has to be liquidated. A reasonable valuation will provide security for both the borrower and CCC.

Resale collateral values provided by a qualified expert, such as an FSA employee delegated chattel appraisal authority according to 1-FLP.

**Note:** Additional security may be required for FSFL's with an aggregate outstanding FSFL \*--balance equal or less than \$50,000, if STC or COC determines that the structure--\* has no resale value.

24 Security for FSFL’s (Continued)

**N Resale Collateral Value (Continued)**

Use the following table as an option when it is determined by STC or COC that the storage structure has **no** resale collateral value and the producer does **not** have additional security available to secure FSFL.

|  |   |
|--|---|
| <b>IF the aggregate outstanding FSFL balance is...</b> | <b>THEN the FSA employee with loan approval authority must determine the producer has the ability to repay FSFL and is credit worthy, and STC...</b>  |
| \$25,000 or less                                       | <b>may</b> determine Statewide that a downpayment of 20 percent of the eligible net costs is required.<br><br><b>Note:</b> A minimum downpayment of 15 percent is <b>required</b> according to subparagraph 27 A. |
| \$25,000.01 to \$50,000                                | <b>must</b> require Statewide a downpayment of 20 percent of the eligible net costs.  |
| ***  | ***   |

**Notes:** The new resale collateral value policy applies to FSFL’s approved **before February 12, 2013**. FSFL’s **must** be re-reviewed and approved by the approving official. The new policy does **not** apply to FSFL’s already disbursed.

State or County Offices **must** ensure that the additional downpayment is recorded on the FSFL disbursement calculator, according to subparagraph 28 H, and provide the following comment in FSFL Disbursement Calculator Excel worksheet, Part C:

“An additional downpayment was required according to 1-FSFL, subparagraph 24 N policy”.

CCC-297 is **not** required when the downpayment is 20 percent or more.

**O Determining Security Values for Existing Structures**

No security value can be given to existing structures unless the value of the property is included in an appraisal or the tax assessment statement. STC’s, COC’s, and/or FLP employees shall not assign a value to an existing structure based on common knowledge obtained from others in the community.

**Note:** Third party appraisals are acceptable according to subparagraph P.



## 28 Disbursements (Continued)

**B Partial Disbursements (Continued)**

To receive the partial disbursement, the following are required **before** CCC-186 is prepared:

- acceptable documentation providing the cost of the completed portion
- security required for the principal amount **before** the partial disbursement is closed
- CCC-191's from contractors submitting bills for completed construction.

**Example:** The following example explains the maximum amount of the partial disbursement allowed.

\*--FSFL is approved for \$55,000. The applicant completes the site preparation, foundation, and the outer shell of the steel bin. Bills are presented to the County Office for \$40,000. The bills presented are over half of the approved total FSFL amount. The maximum partial disbursement the borrower can receive on this FSFL is \$27,500. Although additional security is required for \$55,000 before the final FSFL disbursement, only one UCC-1 filing is required for the \$27,500 partial disbursement.--\*

If the applicant requests the partial disbursement:

- there will be two FSFL's with 2 installment payments due each year
- a separate CCC-186 will be required for each FSFL
- only 1 **manual** CCC-185 will be required for the partial and final FSFL amounts.

## 28 Disbursements (Continued)

### B Partial Disbursements (Continued)

County Offices shall:

- assist producers with completing 1 manual CCC-185 for the total FSFL amount requested
- enter 2 separate FSFL's into the FSFL software following instructions in paragraph 353

**Notes:** Currently, to process partial and final FSFL disbursements, 2 separate FSFL's are required in FSFL software. One FSFL for 50 percent of the requested FSFL total will be initially entered into the FSFL software for the partial disbursement, and another FSFL for the other 50 percent of the requested FSFL amount will be entered into the FSFL software for the final disbursement.

Because the exact amount of the partial and final FSFL disbursements cannot be determined before the structure is completed, it may be necessary to increase or decrease the approved and obligated amounts for each FSFL when the total for each disbursement has been determined.

- enter the approval date and amount for each FSFL when the requested facility has been approved by COC or STC
- see paragraph 24 for FSFL security requirements for FSFL's with partial and final disbursements
- see paragraph 30 for application fees for FSFL's with partial and final disbursements
- \*--complete an FSFL disbursement calculator, according to subparagraph F, before disbursing the partial disbursement. The FSFL disbursement calculator must be filed in the producer's FSFL folder.--\*

### C Final Disbursements

CCC will disburse FSFL or make the final disbursement when:

- the **entire** facility has been:
  - assembled
  - constructed
  - installed
  - inspected and approved by COC representative
  - determined to be free of liens other than CCC's by a final lien search
- all security requirements have been met.

**Part 6 Approving COC CCC-185 Reviews****115 CCC-185 Reviews****A Responsibility**

The approving authority shall determine:

- whether the applicant meets all eligibility requirements
- whether the proposed facility or renovation is eligible and needed
- whether the estimated yields and acreages to calculate needs are reasonable
- whether the environmental conditions of the site would place CCC at risk
- \*--if FSFL is less than \$50,000, whether the structure has resale value, according to--\*  
subparagraph 24 N

**Note:** \* \* \* If the value is less than the FSFL amount, additional security may be required.

- the type of security to be required
- the conditions of approval.

**Note:** Conditions of approval will include actions that must be taken or documents that must be provided **before** disbursement and shall **not** include eligibility determinations required by COC or other approving authority.

## 115 CCC-185 Reviews (Continued)

**B Approvals and Disapprovals**

COC shall do 1 of the following:

- for FSFL's with the total principal of \$100,000 or less, approve FSFL by signing CCC-185 and document the determinations from subparagraph A in the executive COC minutes
- for FSFL's with a total principal of \$100,000.01 to \$250,000, have DD or State Office designee review FSFL **before** approval

**Note:** Once the review is complete and all discrepancies are corrected, approve FSFL by signing CCC-185 and document the determinations from subparagraph A in the executive COC minutes.

- for FSFL's where the borrower's **total aggregate FSFL balance** is over \$250,000, have DD or State Office designee, before COC approval, review the most recent FSFL documents to ensure that the producer is financially able to meet all FSFL obligations

\*--**Note:** STC or STC-delegated SED **only** is the approval authority for an individual--\* FSFL with a total principal of \$250,000.01 to \$500,000.

- disapprove FSFL, documenting why in the executive COC minutes.

DD or State Office designee shall, before approval by COC, review CCC-185 where the principal amount is equal to \$100,000.01 to \$250,000. If the review:

- reveals discrepancies or errors, the file shall be returned to the County Office for correction

**Note:** After corrections have been made, DD or State Office designee shall again review the file.

- is acceptable, a statement similar to the following shall be entered on CCC-185, item 18:

“From review of the completed documents and review of the financial documents, I concur with the recommendation of the FLM/FLO/SFLO, concurring with the financial ability of the applicant and I also recommend approval or disapproval of FSFL to COC.”

**Note:** DD or State Office designee shall sign and date the statement.

127 Finalizing FSFL's (Continued)

**B Finalizing FSFL's Secured by Real Estate (Continued)**

| Step | Action   |
|------|--|
| 12   | <p>If checks are required, submit the payment request for checks according to subparagraph 368 B. When checks are received, immediately schedule a closing date.</p> <p><b>Note:</b> FSFL closing must be completed within 21 calendar days of signing in NPS. Checks may be made out to the closing attorney to be held in escrow, if allowed by State law. In this case, the day the attorney cashes the check will be the date of FSFL closing and CCC-186 must be signed that day. In the case of escrow, the attorney will then issue checks as indicated in FSFL closing instructions.</p> |
| 13   | <p>Within 5 workdays before FSFL closing, perform a final lien search on the collateral.</p> <p><b>Note:</b> County Office must initial and date that this action was completed on CCC-195, step 19M.</p>  |
| 14   | <p>Issue a notification of FSFL closing to the applicant. See the example letter in subparagraph 129 G.</p>  |
| 15   | <p>Issue a closing letter to the agent with CCC-186 signed by the approving official together with other closing instructions. See the example letter in subparagraph 129 H.</p>   |
| 16   | <p>Prepare the following:</p> <ul style="list-style-type: none"> <li>• CCC-186</li> <li>• CCC-193 or CCC-193-D.</li> </ul>   |
| 17   | <p>The closing agent closes FSFL and provides the FSFL closing statement to the County Office.</p>   |

**Notes:** These steps are applicable to both the partial and final disbursements for FSFL's secured by real estate.

\*--If a partial disbursement is requested and FSFL principal of the partial is \$50,000--\* or less, the instructions in subparagraph A may be followed.

128 Examples of FSFL Approval and Initial Determination Letters

A Example of FSFL Approval Notification Letter

The following is an example of an FSFL approval notification letter.

\*--

(Date of Letter)

(Borrower Name)  
 (Borrower Address Line 1)  
 (Borrower Address Line 2)

Dear (Borrower Name),

Please be advised that the Commodity Credit Corporation has approved your request for a Farm Storage Facility Loan in the amount of \$\_\_\_\_\_. The loan will be repaid in equal installments over a period of \_\_\_ years and will carry an annual interest rate of \_\_\_\_\_% for the entire term. Your loan has also been funded.

The loan was approved based upon the following (enter those that are needed):

- Additional security is provided in the form of Real Estate or other form authorized by CCC.
- Crop insurance or NAP coverage is purchased for all crops of economic significance.
- All-peril structural insurance is obtained for an amount at least equal to the loan amount.
- CCC-297's, Severance Agreements, are obtained from anyone with a lien or interest in the real estate underlying the structure.

Loan approval will expire \_\_\_\_\_ (6 months after the date of approval). If you need additional time to complete construction, you must submit a request for an extension, in writing, providing evidence that the lack of completion is for reasons beyond your control.

As soon as possible, you must:

- Complete construction and notify this office when the facility is ready for inspection. The system, or components of the system, need to be inspected before use.
- Provide evidence of final cost of the facility and the payment of the downpayment to this office.
- Provide evidence that all-peril structural insurance has been obtained.

We will:

- Compute the final net cost of the facility and request an increase in funding, if needed.
- Prepare loan documents and, if applicable, have mortgage documents prepared.
- Notify you of a loan closing date.

You are responsible for notifying this office to request a partial disbursement after a portion of your structure has been completed. One partial disbursement is authorized. This disbursement can be for up to 50 percent of the total anticipated loan amount and commensurate with the amount of construction completed.

Please keep us informed of any changes that can affect your loan approval. If you should decide not to proceed with this loan, please inform our office, in writing, of your decision so obligated funds can be returned.

Sincerely,

County Executive Director

--\*

## 130 CCC-297 (Continued)

**B When CCC-297 Is Not Required (Continued)**

- \*--aggregate outstanding FSFL balance is \$50,000 or less

**Note:** Additional security may be required for FSFL's with an aggregate outstanding FSFL balance equal to or less than \$50,000, if STC or COC determines that\*--\* the structure has **no** resale value. See subparagraph 24 N for guidance.

- provide another form of security acceptable to the Secretary.

**Notes:** If the borrower increases the downpayment from 15 percent to 20 percent, CCC-297's will **not** be required. The applicant **must** be informed of and request this option when CCC-185 is submitted.

If the applicant requests to use this option, notate in CCC-185, item 18, and have the applicant sign and date. At final closing, proof that the entire 20 percent downpayment was made is required, or the loan cannot be closed until either CCC-297 is provided or additional documentation showing that the 20 percent downpayment has been made is received by the County Office.

\*--This option only applies to FSFL's of \$50,000 or less because all other\*--\* FSFL's already require additional security and, in most instances when CCC has a mortgage on the underlying real estate, the facility is **not** severed from the real estate.

CCC-297 is **required** for **all** FSFL:

- assumptions
- where the security is owned by someone other than the borrower.

**C State Office Action**

State Offices shall:

- request changes and instructions to CCC-297 from the regional attorney
- make CCC-297 a State form
- provide a copy to PSD.

**D County Office Action**

County Offices shall:

- for FSFL's where a real estate lien is:
  - required, have the attorney obtain the properly completed and signed CCC-297

**Notes:** The attorney should perform all lien searches.

If the County Office knows the real estate lienholders, they may obtain properly completed CCC-297's before FSFL closing.

## 130 CCC-297 (Continued)

**D County Office Action (Continued)**

- **not** required, conduct a real estate lien search to identify holders of liens on real estate underlying the intended storage facility and obtain properly executed CCC-297's

**Note:** See Exhibit 10.

- file CCC-297 before FSFL closing in the appropriate county real estate records unless the regional attorney waives the filing requirement.

**Notes:** If COC initially approves CCC-185 before receiving the necessary CCC-297's, then ENTER "The receipt of required CCC-297's" on CCC-185, item 18, as a condition of approval.

\*--If County Offices are unable to obtain the required real estate lien searches from their County Recorder, the County Office shall use either of the following:

- local title company with moderate fees
- farm loan personnel trained to perform real estate lien searches.--\*

**E STC Action**

STC's may enter into blanket CCC-297's with lenders if CCC-297's are approved by the regional attorney.

## 131 Real Estate Lien Instruments

**A Security Instruments**

State Offices shall develop a real estate lien instrument in consultation with their regional attorney. The security instrument may be a real estate mortgage, deed of trust, or other type of instrument. The security instrument must be used for all FSFL's to be secured with real estate. CCC-193 is a real estate mortgage available for FSFLP. CCC-193-D is a deed of trust available for FSFLP.

**B Signatures**

For a lien on real estate, **all** of the following shall sign the real estate lien instrument:

- the borrower, **only** if the borrower has an ownership interest in the land
- all persons or entities having an ownership interest in the applicable real estate
- the borrower's spouse shall also sign the instrument in States where spousal signatures are required by statute.