

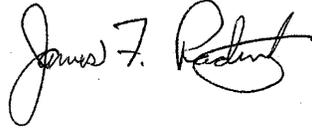
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Regular Direct Loan Servicing
4-FLP**

Amendment 16

Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 100 B has been amended to clarify that third party foreclosures or failure to pay real estate taxes or insurance and UCC renewal fees do not need to be sent to SED's for concurrence.

Subparagraph 248 C has been amended to clarify that the new entity must consist of the same members.

Subparagraph 283 A has been amended to clarify that funds from the sale of basic security must be applied as an extra payment when the borrower is on active military duty in a time of war.

Exhibits 52 and 53 have been amended to clarify that annual payments will not be required when the borrower is on active military duty in a time of war.

Page Control Chart		
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	11-5, 11-6	

99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

I Allotments Leases

[7 CFR 765.252 (e)] (1) The Agency will not approve any crop allotment lease that will adversely affect its security interest in the allotment.

(2) The borrower must assign all rental proceeds from an allotment lease to the Agency.

J Lease Proceeds

[7 CFR 765.252 (d)] Lease proceeds are considered normal income security and may be used in accordance with § 765.303 (paragraph 163).

100 Borrower Noncompliance With Loan Agreements**A Documenting Noncompliance**

To be eligible for any kind of FSA loan servicing options, the borrower must be in compliance with loan agreements. The authorized agency official will fully document a borrower's noncompliance (such as the failure to report using security proceeds) in the borrower's case file. Documentation must include, but is not limited to:

- type, nature, circumstances, and reasons for noncompliance
- any actions taken by the borrower to correct the noncompliance.

According to paragraph 99, FSA may deny loan servicing actions to a borrower who has a significant noncompliance history, even if the borrower later resolved the issues.

B Borrower's Noncompliance Notification

Borrowers in noncompliance will be given the opportunity to correct the matter whenever possible. The borrower will be contacted and provided the opportunity to explain the potential noncompliance using Exhibit 28.5. Any response received from the borrower will be documented in the case file and any materials will be included in the case file. The authorized agency official will review the borrower's response and determine if the potential noncompliance has been satisfactorily resolved. If the issue is resolved, the case file will be documented and no further action will be taken.

--Except for third party foreclosures, failure to pay real estate taxes or insurance, and UCC renewal fees, if the authorized agency official determines that the potential noncompliance-- has not been resolved, the account will be referred to SED for concurrence. FSA-2551 will be prepared by the local office and must include all pertinent information, evidence, and any responses provided by the borrower about the potential noncompliance. FSA-2551 and all documentation will be forwarded to SED for concurrence of nonmonetary default determination according to 5-FLP, paragraph 66 and notification according to 5-FLP, subparagraph 67 A. SED concurrence is also required before any civil action or criminal action is considered according to 5-FLP, Part 11.

C Lack of Good Faith

If loan servicing is to be denied based on "lack of good faith", a determination must be made by OGC as explained in detail on FSA-2551. OGC only needs to concur with nonmonetary defaults that involve "lack of good faith". FSA-2551 will be prepared by the local office and must include all pertinent information, evidence, and any responses provided by the borrower. FSA-2551 and all documentation will be forwarded to SED for concurrence and submission to OGC.

248 Assumption Terms**A Basic Policy**

Loans will generally be assumed on new rates and terms. A loan may only be assumed on the same rates and terms according to paragraph C.

B Eligible Applicant - New Rates and Terms

[7 CFR 765.403(e)] The interest rate and loan term will be determined according to rates and terms established in part 764 (3-FLP) of this chapter for the type of loan being assumed.

C Eligible Applicant - Same Rates and Terms

A transfer and assumption of all debt and security processed at the same rates and terms does not require an appraisal.

[7 CFR 765.402] An eligible applicant may assume an Agency loan under the same rates and terms as the original note if:

- (a) The original borrower has died and the spouse, other relative, or joint tenant who is not obligated on the note inherits the security property;**
- (b) A family member of the borrower or an entity comprised solely of family members of the borrower assumes the debt along with the original borrower;**
- (c) An individual with an ownership interest in the borrower entity buys the entire ownership interest of the other members and continues to operate the farm in accordance with loan requirements. The new owner must assume personal liability for the loan;**
- (d) A new entity buys the borrower entity and continues to operate the farm in accordance with loan requirements; or**

***--Note:** The new entity must replace the present entity and consist of the same members.--*

248 Assumption Terms (Continued)

C Eligible Applicant - Same Rates and Terms (Continued)

(e) The original loan is an EM loan for physical or production losses and persons who were directly involved in the farm's operation at the time of the loss will assume the loan. If the original loan was made to:

(1) An individual borrower, the transferee must be a family member of the original borrower or an entity that is comprised solely of family members of the original borrower.

(2) A trust, partnership or joint operation, the transferee must have been a member, partner or joint operator when FSA made the original loan or remain an entity comprised solely of people who were original members, partners or joint operators when the entity received the original loan.

(3) A corporation, including limited liability company, or cooperative, the transferee must:

(i) Have been a corporate stockholder or a cooperative member when the Agency made the original loan or will be an entity comprised solely of people who were corporate stockholders or cooperative members when the entity received the loan; and

(ii) Assume only the portion of the physical or production loss loan equal to the transferee's percentage of ownership. In the case of entity transferees, the transferee must assume that portion of the loan equal to the combined percentages of ownership of the individual stockholders or members in the transferee.

D Transfer and Assumption of Types of Loans No Longer Made by FSA

[7 CFR 765.403(c)] Real estate loan types the Agency no longer makes (i.e. EE, RL, RHF) may be assumed and reclassified as FO loans if the transferee is eligible for an FO loan under part 764 of this chapter (3-FLP) and the property proposed for transfer meets program requirements.

282 Servicemembers Civil Relief Act of 2003 (Continued)**J Treasury and Internal Administrative Offsets**

Treasury and internal administrative offsets will be discontinued once a borrower is ordered to report for induction or military service, and any payments received as a result of offset after the date the borrower was called to active duty will be refunded. Treasury offsets shall be suspended by State Offices by deleting affected loans each quarter on the Borrowers Eligible for TOP Offset Certified Screen or the Borrowers Eligible for TOP Offset Screen. Co-borrowers associated with this debt must also be deleted in an effort to reduce hardship on the family. See applicable FI directives for further information. The suspension will begin when the borrower is ordered to report for induction or military service and continues during the period of active duty and 3 months thereafter.

Note: Use delete code “07”, “Borrower was indebted to FSA before entering full time active duty military service and the account is being serviced according to the National Defense Act.”

K Treasury Cross-Servicing

Borrowers and co-borrowers called to active military duty similarly shall not be referred for cross-servicing.

Note: If the borrower has been referred to Treasury for cross-servicing, State Offices must *--FAX FSA-1956-22's with code “07” in item 14A to FSC, FLOO at 314-457-4539.--*

L Canceling the 6 Percent Interest Rate

If FSA decreased the borrower's interest rate, as soon as the authorized agency official verifies that a borrower is no longer on active duty, the authorized agency official shall send a letter to FSC, FLOO. This letter instructs FSC, FLOO to terminate the 6 percent interest rate and revert to the rate in existence before the assignment of the 6 percent rate.

283 Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005

A Suspension of Interest Accrual and Payments

During a time of war or national emergency as declared by the President or Congress, the existing FLP payments of borrowers on active duty (National Guard members must be on duty at least 30 calendar days to be considered on active duty) will be deferred and interest will not accrue beginning on October 28, 2004, or the date in which they enter active duty, whichever is later. If any regular payments have been made since the date noted, October 28, 2004, the borrower should be contacted and the payment will be refunded at their request. The due dates of all payments due during and after such active duty will be deferred for a period of time equal to the time the borrower is on active duty during war or a national emergency.

Example: A borrower with an OL (matures January 15, 2009, annual payment on January 1) and a FO (matures February 15, 2030, annual payment on January 1) enters active duty on October 1, 2006, and is discharged on April 1, 2007 (182 days).

- Interest will not accrue from October 1, 2006, to April 1, 2007.
- The payments on both loans will be due on September 30 each year (April 1, 2007 + 182 days = September 30).

***--Note:** Funds from the sale of basic security must be applied as an extra payment according to subparagraph 63 A.--*

When information is received by the County Office that a borrower has entered or is entering active duty, the County Office will send:

- the borrower Exhibit 52, informing them that payments will be deferred and interest will not accrue during time of active duty
- FSC, FLOO a courtesy copy by FAX to:
 - 314-679-6815 for State coded 01 through 32
 - 314-679-6816 for State coded 33 through 64.

Borrowers Entering Active Duty

When information is received by the County Office that a borrower has entered or is entering active duty, the County Office will send:

- the borrower the following, informing them that payments will be deferred and interest will not accrue during time of active duty
- FLOO a courtesy copy by FAX to:
 - 314-679-6815 for State Offices coded 01 through 32
 - 314-679-6816 for State Offices coded 33 through 64.

Note: This exhibit may only be revised by SED.

Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK “Find Current Forms Using Our Form Number Search”, in Form Number block, type, “4-FLP Exhibit 52”, and CLICK “Submit”.

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4-FLP, Exhibit 52
(Use Agency Letterhead format with local return address.)
BORROWERS ENTERING ACTIVE DUTY
Dear:
On October 28, 2004, the President signed into law the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (the Act). As per the Act, while you are on active duty, interest will not accrue and annual payments will not be required (will be deferred) on your Farm Service Agency (FSA) Farm Loan Program (FLP) loans while the United States is at war or during a national emergency as declared by the President or Congress. Payments due during or after active duty will be deferred for the length of time you are on active duty.
The beginning date of the deferred and non-accrual status is _____. The deferral and non-accrual status will end on the earlier of when your active duty ends or the war or national emergency is concluded.
FSA is committed to providing service to assist our borrowers who are impacted by military deployment. Please continue to keep this office apprised of your current duty status so your account can be updated in a timely manner once you are relieved from active duty (with a copy of your release orders) or the national emergency has ended.
Please do not hesitate to contact this office if any further information is required.

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