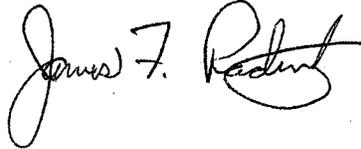


UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Regular Direct Loan Servicing 4-FLP	Amendment 24
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Approved by: Acting Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reason for Amendment

Subparagraphs 99 G, 116 A, and 196 B have been amended to provide guidance for identifying wetlands.

Page Control Chart		
TC	Text	Exhibit
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99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

D Conditions for FSA Consent to Borrower Ceasing to Operate (Continued)

--(d) Any one of the following conditions is met:--

(i) The borrower is involved in the day-to-day operational activities, management decisions, costs and returns of the farming operation, and will continue to reside in the immediate farming community for reasonable management and operation involvement;

(ii) The borrower's failure to operate the security is due to age or poor health, and the borrower continues to reside in the immediate farming community for reasonable management and operation involvement; or

(iii) The borrower's failure to operate the security is beyond the borrower's control, and the borrower will resume the farming operation within 3 years.

***--E Real Estate Surface Leases**

[7 CFR 765.252(a)] The borrower must request prior approval to lease the surface of real estate security. The Agency will approve requests provided the following conditions are met:

(1) The lease will not adversely affect the Agency's security interest;

(2) The term of consecutive leases for agricultural purposes does not exceed 3 years, or 5 years if the borrower and the lessee are related by blood or marriage. Or

The term of surface leases for farm property no longer in use, such as old barns, or for nonfarm purposes, such as wind turbines, communication towers, or similar installations can be for any term;

Note: Surface leases of farm property no longer in use or nonfarm purposes must be approved by the SED.--*

(3) The lease does not contain an option to purchase; and

***--(4) The lease does not hinder the future operation or success of the farm, or, if the borrower has ceased to operate the farm, the requirements specified in § 765.253 are met (subparagraph D); and**

(5) The lease and any contracts or agreements in connection with the lease must be reviewed and approved by the Government.--*

99 Borrower Responsibilities for Complying With Loan Instruments (Continued)**F Conditions for Continuation**

Consent for a borrower's request or action to cease operating the security or lease the property shall be considered by DD's according to this paragraph.

If FSA cannot give the borrower consent to cease operating or lease the real estate security, FSA will immediately notify the borrower of nonmonetary default according to 5-FLP, paragraph 66.

G Mineral Leases

[7 CFR 765.252 (b)] The borrower must request Agency consent to lease any mineral rights used as security for Agency loans.

(1) For FO loans made from December 23, 1985, to February 7, 2014, and loans other than FO loans secured by real estate and made from December 23, 1985, to November 1, 2013, the value of the mineral rights must have been included in the original appraisal in order for the Agency to obtain a security interest in any oil, gas, and other mineral associated with the real estate security.

(2) For all other loans not covered by paragraph (b)(1) of this section (subparagraph 99 G), the Agency will obtain a security interest in any oil, gas, and other mineral on or under the real estate pledged as collateral in accordance with the applicable security agreement, regardless of whether such minerals were included in the original appraisal.

(3) The Agency may consent to a mineral lease if the proposed use of the leased rights will not adversely affect either:

(i) The Agency's security interest; or

(ii) Compliance with any applicable environmental requirements of subpart G of 7 CFR part 1940.

--See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.--

(4) The term of the mineral lease is not limited.

H Chattel Security Leases

[7 CFR 765.252 (c)] Lease of chattel security is not authorized.

FSA immediately notifies the borrower of nonmonetary default according to 5-FLP, paragraph 66.

Section 2 Subordinations

116 Requesting Subordinations

A Borrower Application

[7 CFR 765.205 (a)] The borrower must submit the following, unless it already exists in the Agency's file and is still current as determined by the Agency:

[7 CFR 765.205 (a)] (1) Completed Agency application for subordination form;

FSA-2001 with the following completed:

- Part A, item 1
- Part C, items 1 and 5A
- Part D, items 4A and 4B
- Part E, items 18A and 18B.

FSA-2060 will also be required for real estate subordination requests.

[7 CFR 765.205 (a)] (2) A current financial statement, including, in the case of an entity, financial statements from all entity members;

FSA-2037, FSA-2038, or any other format approved by FSA containing the same information.

[7 CFR 765.205 (a)] (3) Documentation of compliance with the Agency's environmental regulations contained in subpart G of 7 CFR part 1940;

AD-1026.

--See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.--

[7 CFR 765.205 (a)] (4) Verification of all non-farm income;

[7 CFR 765.205 (a)] (5) The farm's operating plan, including a projected cash flow budget reflecting production, income, expenses, and debt repayment plan; and

[7 CFR 765.205 (a)] (6) Verification of all debts.

A credit report is required unless current credit information is already contained in the borrower's case file or is otherwise available. The credit report fee will be paid by FSA unless the borrower has also applied for an FLP loan.

See 3-FLP, subparagraph 42 A for the verification process of non-farm income and debts.

116 Requesting Subordinations (Continued)

B Processing Subordination Requests

--The authorized agency official will enter the following information into DLS and use it to track and monitor subordination requests:--

- date the application is received
- applicant name
- type of assistance requested
- subordination amount requested.

Section 3 Real Estate Security Partial Releases

196 Requirements

A General

[7 CFR 765.351] The borrower must obtain prior consent from the Agency for any transactions affecting the real estate security, including but not limited to, sale or exchange of security, a right-of-way across security, and a partial release. The Agency may consent to such transactions provided the conditions in this section are met.

Note: Borrowers must use FSA-2060 to request partial release of real estate security.

B Conditions for Approval

[7 CFR 765.351(a)] The following conditions apply to all transactions affecting real estate:

[7 CFR 765.351(a)] (1) The transaction will enhance the objectives for which the Agency loan or loans were made;

[7 CFR 765.351(a)] (2) The transaction will not jeopardize the borrower's ability to repay the Agency loan, or is necessary to place the borrower's operation on a sound basis;

Note: Partial releases after acceleration can be approved, according to subparagraph 197 E, as items (1) and (2) can be met by orderly liquidation.

***--[7 CFR 765.351(a)] (3) Except for releases in paragraph (f) of this section (subparagraph 196 H), the amount received by the borrower for the security being disposed of, or the rights being granted, is not less than the market value and will be remitted to the lienholders in the order of lien priority;**

Note: Release of real estate security to be retained by the borrower is not authorized except in conjunction with an approved debt settlement action or as set forth in paragraph 146.

[7 CFR 765.351(a)] (4) The transaction must not interfere with the borrower's farming operation;

[7 CFR 765.351(a)] (5) The market value of the remaining security is adequate to--* secure the Agency loans, or if the market value of the security before the transaction was inadequate to fully secure the Agency loans, the Agency's equity in the security is not diminished;

196 Requirements (Continued)

B Conditions for Approval (Continued)

[7 CFR 765.351(a)] (6) The environmental requirements of subpart G of 7 CFR part 1940 must be met;

--See 1-FLP, subparagraph 222 C for guidance to identify potential wetlands that may be impacted by the proposed action.--

[7 CFR 765.351(a)] (7) The borrower cannot graduate to other credit on any program except for CL; and

[7 CFR 765.351(a)] (8) The borrower must not be ineligible due to disqualification--* resulting from Federal Crop Insurance violation according to 7 CFR part 718.

C Sale of Timber, Gravel, Oil, Gas, Coal, or Other Minerals

[7 CFR 765.351(b)] (1) Agency security instruments require that the borrower request and receive written consent from the Agency prior to certain transactions, including but not limited to, cutting, removal, or lease of timber, gravel, oil, gas, coal, or other minerals, except small amounts used by the borrower for ordinary household purposes.

(i) The sale of timber from real estate which secures an Agency loan will be considered a disposition of a portion of the security.

(ii) When the Agency has a security interest in oil, gas, or other minerals as provided by § 765.252(b) (subparagraph 99 G), the sale of such products will be considered a disposition of a portion of the security by the Agency.

D Compensation for Damage to Real Estate Security

[7 CFR 765.351(b)(2)] Any compensation the borrower may receive for damages to the surface of the real estate security resulting from exploration for, or recovery of, minerals must be assigned to the Agency. Such proceeds will be used to repair the damage, and any remaining funds must be remitted to lienholders in the order of lien priority or, with all lienholders' consent, used for an authorized loan purpose.

E Disposition of Security for Outstanding ST's

[7 CFR 765.351(a)(9)] The disposition of real estate security for an outstanding ST loan will only be authorized if the transaction will result in full repayment of the loan.

Commodities produced by the property, such as when timber is thinned, can be sold without paying ST in full, as long as all proceeds are applied to ST.