

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Regular Direct Loan Servicing
4-FLP**

Amendment 33

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraphs 61 C, 61 E, 62 A, 64 B, 64 C, 66 A, 66 C, 66 D, 67 A, 67 B, 67 C, 67 D, 67 E, 97 B, 146 C, 282 A, 282 K, 282 L, 283 A, 283 B, and Exhibits 25.5, 51, 52, and 53 have been amended to clarify new titles for NFAOC after the reorganization.

Subparagraph 61:

- C has been amended to remove unclear guidance regarding FSA-2429 and 64-FI
- D has been amended to add a note to clarify the correct NRRS code for refinancing.

Subparagraph 64 A has been amended to clarify the order of distributing payments to each loan.

Subparagraphs 67 B and E have been amended to clarify PAD terminations because of rejections.

Subparagraph 67 D has been amended to clarify PAD with final payments.

Subparagraph 98 A has been amended to add guidance on a new FSA UCC Security Guide and information on continuing UCC for borrowers in bankruptcy.

Subparagraph 98 G has been removed because it was a duplicate of subparagraph 98 E.

Subparagraph 99 B has been amended to reference Exhibit 28.4 for bankruptcy borrowers.

Subparagraph 117 A has been amended to add notes emphasizing graduation.

Subparagraph 117 B has been amended to clarify notes for releasing and refiling lien instruments.

Subparagraph 119 A has been amended to realign bullets for clarification when appraisal is not needed.

Subparagraph 146 A has been amended to add emphasis for graduation review.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 146 D has been amended to provide additional guidance for borrowers meeting the 3-year requirement for not receiving PLS or DSA.

Paragraph 162 has been amended to remove references to annual review.

Subparagraph 181 A has been amended to reference Exhibit 31.5 for bankruptcy borrowers.

Subparagraph 196 A has been amended to add a note that the section applies to sale of water and water rights.

Subparagraph 196 B has been amended to add a note to emphasize graduation review.

Subparagraph 196 C has been amended to include the sale of water and water rights.

Subparagraphs 247 A and B have been amended to clarify transfers and assumptions.

Exhibit 4 has been amended to require State supplement for releasing and refiling lien instruments.

Exhibit 28.4 has been added to request continuation statement filing fee for borrowers in bankruptcy.

Exhibit 31.5 has been added for Notification of Unauthorized Use of Proceeds for borrowers in bankruptcy.

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Part 5 Borrower Payments

61 General

A Purpose

This part identifies how payments received by FSA from the borrower are to be applied to borrower loans. For borrowers with chattel security, this part refers to proceeds that FSA will apply to the borrower's FLP debt according to FBP and FSA-2040.

B Acceptable Payment Forms

[7 CFR 765.151(a)] Borrowers must submit their loan payments in a form acceptable to the Agency, such as checks, cash, and money orders. Forms of payment not acceptable to the Agency include, but are not limited to, foreign currency, foreign checks, and sight drafts.

C Processing Payments

[7 CFR 765.151(b)] The Agency credits the borrower's account as of the date the Agency receives payment.

Note: When an office is closed because of a lapse in government funding, natural disaster, or response to emergency situation, borrower payments submitted by mail will be credited as of the date of the postmark.

When FSA receives a payment, the authorized agency official must record and process the payment according to 64-FI. * * *

A receipt for payments received will be given when cash is received or the borrower requests a receipt with other payment forms.

Any subsequent correction of applications will be processed in NRRS. For the correction to be updated to borrower's account, the authorized agency official will need to submit *--FSA-2429 through the RD Business Center, FaSB, ECM system. Changes in application--* of loan payments shall not be for trivial or minor purposes. FSA-2429 **must** be submitted as soon as the error in application of payments is discovered or by December 31 of the current CY, to not adversely impact FSA issuance of IRS-1098. Only payments received in the current CY can be changed.

Approval from DAFLP is required to make changes in past CY's or after IRS-1098's have been prepared.

61 General (Continued)

D Identifying Regular and Extra Payments

When FSA receives a payment from the borrower, the authorized agency official will identify the source of income from which the payment was derived. The source of the income or proceeds is essential to determine whether FSA applies payments as regular or extra.

[7 CFR 765.152(a)] Regular payments are derived from, but are not limited to:

- (1) The sale of normal income security;**
- (2) The sale of farm products;**
- (3) Lease income, including mineral lease signing bonus;**
- (4) Program or disaster-related disbursements from USDA or crop insurance entities;
and**
- (5) Non-farm income.**

[7 CFR 765.152(b)] Extra payments are derived from any of the following:

- (1) Sale of chattel security other than normal income security;**

such as farm equipment and breeding livestock.

- (2) Sale of real estate security;**
- (3) Refinancing of Agency debt;**

***--Note:** As required in 64-FI, Exhibit 17, collections for refinancing are coded as “Y” in NRRS.--*

- (4) Cash proceeds of insurance claims received on Agency security, if not being used to repair or replace the security;**
- (5) Any transaction that results in a loss in the value of any Agency basic security;**
- (6) Refunds of duplicate program benefits or assistance to be applied on CL or EM loans; or**
- (7) Refunds of unused loan funds.**

61 General (Continued)**E Canceling Undisbursed Loan Funds**

After a loan has been closed, the authorized agency official will complete FSA-2425 to cancel the obligation of funds that will not be used by the borrower. No interest accrues, since the funds were obligated, but not advanced.

--FSA-2072 must also be prepared and submitted with a copy of FSA-2425 to the RD Business Center, FaSB. See 1-FLP, subparagraph 5 B.--

The original FSA-2425 with the borrower's signature will be stapled to the original promissory note in the locked, fire-resistant file cabinet. A copy of FSA-2425 will be placed in the borrower's file in position 2 with the note and an ADPS Unclosed (UN) Screen

--screen-print, after completion of the deobligation by the RD Business Center, FaSB.--

If it is clear that the unused funds will not be used, but the borrowers will not sign FSA-2425, SED's are authorized to approve cancellation of undisbursed loan funds after all PLS options have been exhausted or the debt is paid in full. This authority may not be redelegated. If PLS has not been exhausted, States Offices shall contact LSPMD for directions.

--The RD Business Center, FaSB record of the loan will indicate the loan amount was-- reduced after deobligation. Keeping FSA-2425 with the promissory note (both original and copy) is the paper trail evidence that the loan amount was reduced after closing and the borrower consented.

DLS will be updated as required.

62 Regular Payments**A Applying Regular Payments**

[7 CFR 765.153(a)] A regular payment is credited to a scheduled installment on program and non-program loans. Regular payments are applied to loans in the following order:

- (1) Annual operating loan;**
- (2) Delinquent FLP installments, paying least secured loans first;**
- (3) Non-delinquent FLP installments due in the current production cycle in order of security priority, paying least secured loans first;**
- (4) Any future installments due.**

--Regular payments received will be credited by the RD Business Center, FaSB to loans in-- the order provided in subparagraph 64 A, beginning first with administrative costs and protective advances plus interest. Administrative costs and protective advances will only add on to FO's, SW's, and CL's. For other loan types, a new loan account is established. The loan number for these loans is generally between 75 and 99. Any protective advance or administrative cost charged back to a borrower's account is immediately due and payable.

B Regular Payments From Real Estate Sale Security With SED Approval

[7 CFR 765.152(c)] Notwithstanding any other provision of this section, payments derived from the sale of real estate security will be treated as regular payments at the Agency's discretion, if the FLP loans will be adequately secured after the transaction.

When FSA becomes aware that the borrower is selling all or a portion of the real estate security, FSA-2060 should be requested from the borrower. When FSA receives the payment from the sale of real estate security, the authorized agency official must consult FSA-2060 to determine the loan to which the payment should be applied, generally in the order of lien priority.

Note: If the borrower requests that payments resulting from the sale or exchange of real estate security be applied to current, delinquent, or unmatured loan installments; the borrower, with the assistance of the authorized agency official, must complete and submit FSA-2060. Only SED's may approve this application of funds. The authorized agency official will forward the completed FSA-2060 and any other materials required to SED for review. The authorized agency official will inform the borrower of the decision and provide appeal rights according to 1-APP, if FSA-2060 is not approved.

63 Extra Payments

A Applying Extra Payments

[7 CFR 765.153(b)] An extra payment is not credited to a scheduled installment and does not relieve the borrower’s responsibility to make scheduled loan installments, but will reduce the borrower’s FLP indebtedness. Extra payments are applied to FLP loans in order of lien priority except for refunds of unused loan funds, which shall be applied to the loan for which the funds were advanced.

64 Distributing Payments to Loans

A Order

[7 CFR 765.154] The Agency applies both regular and extra payments to each loan in the following order, as applicable:

- (a) Recoverable costs and protective advances plus interest;
- (b) Deferred non-capitalized interest;
- (c) Accrued deferred interest;
- *--Note: Accrued noncapitalized interest will be credited after accrued deferred interest.--*
- (d) Interest accrued to date of payment; and
- (e) Loan principal.

B Distribution

Distribute payments according to the following.

IF the loan...	THEN...
number is identified correctly on the payment information	*--the RD Business Center, FaSB will automatically--* distribute the payment to borrower debt according to subparagraph A.
costs are separate from their parent loan (usually identified by loan numbers between 75 and 99)	the payment needs to be specifically identified to be applied to those loan cost accounts and then to the original loan.

64 **Distributing Payments to Loans (Continued)****C Notification of Account Activity and Status**

--The RD Business Center, FaSB will normally send the borrower and the local FSA office-- the following:

- “Reminder of Payments To Be Made” 60 calendar days before the installment due date, which shows the borrower the installments due on each loan

*--**Notes:** State Offices that have elected to discontinue the RD Business Center, FaSB--* notification will send a payment reminder letter similar to Exhibit 25.4 to the borrower. A report is under development to assist in accessing the needed data.

The “Reminder of Payments To Be Made” or payment reminder letter sent by the State Office will always provide the VRU telephone number (1-888-518-4983). VRU is a secure, automated system that requires a PIN number, and guides borrowers in obtaining the status of their loans at any time. If further loan information is needed, such as a payoff amount, borrowers are directed to call the FSA office.

The borrower has the ability to change their PIN using the following instructions:

- borrower calls toll free number
- after being asked for their ID, the system checks to see if a PIN is present
- if so, the borrower will be asked to enter the PIN
- if they enter the incorrect PIN they will be given the option to PRESS “1” to re-enter it, or PRESS “2” to change it
- after pressing 2, they will ne walked through the process of changing their PIN.
- FSA-2065 annually, which shows the loan status, all transactions completed during the calendar year, and VRU telephone number.

Note: See Exhibit 25.5 for an explanation of IRS forms sent to borrowers annually.

65 Final Payments (Continued)**E Borrower Refunds**

[7 CFR Part 765.155(b)] If the borrower refunds the entire loan after the loan is closed, the borrower must pay interest from the date of the note to the date the Agency received the funds.

F Security Instrument Releases

[7 CFR Part 765.155(a)] (1) Unless the Agency has reservations regarding the validity of the payment, the Agency may release the borrower's security instruments at the time payment is made, if the borrower makes a final payment by one of the following methods:

- (i) Cash;**
- (ii) U.S. Treasury check;**
- (iii) Cashier's check; or**
- (iv) Certified check.**

[7 CFR Part 765.155(a)(2)] Security instruments will only be released when all loans secured by the instruments have been paid in full or otherwise satisfied.

The authorized agency official will check FSA's automated systems, including ADPS and DLS, and all information in the borrower's file.

SED may issue a State supplement providing guidance about actions and filing fees for the release of loan security instruments.

[7 CFR 765.155(a)(3)] The Agency will return the paid note and satisfied security instruments to the borrower after the Agency processes the final payment and determines that the total indebtedness is paid in full.

After verifying that the loans are paid in full and the payment has cleared, the authorized agency official will close the case files and return the documents to the borrower according to 32-AS. Any assignments held by FSA will be terminated using Exhibit 27 and satisfaction of liens will be recorded on FSA-2433.

* * *

66 Preauthorized Debit (PAD)**A Introduction**

--PAD payments are customer authorized transactions that allow the RD Business Center to electronically collect loan payments from a customer's account at a financial institution. CB is responsible for setting-up, changing, correcting and canceling PAD agreements.--
PAD was implemented for our FLP customers as an alternative way to make weekly, bi-weekly, monthly, quarterly, semi-annual or annual payments on their loans. There is no additional cost to customers for using PAD.

B Using Form RD 3550-28

PAD is initiated by the customer using RD 3550-28. Customer use of PAD is strictly voluntary. RD 3550-28 must be completed by the customer and the FI. If the customer has a "filter" on their FI account, they will need to provide the FI with the:

- origination ID: 1220040804
- agency name: USDA RD DCFO.

A separate RD 3550-28 **must** be completed for each loan to which payments are to be applied. RD 3550-28 has no expiration date. The web address for the fillable form can be accessed at <https://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home>, select RD 3550-28.

66 Preauthorized Debit (PAD) (Continued)

C County Office Actions

After a transfer and assumption, new borrowers shall be notified of the availability of PAD using Exhibit 27.5 and RD 3550-28. A copy of the notification will be retained in the borrower's case file. See 3-FLP for instructions on initiating PAD for new applicants.

When a customer returns RD 3550-28 the County Office will:

- review each RD 3550-28 for accuracy and completeness

Notes: PAD may only be established for future payments. An accuracy check should be completed to ensure that customer's PAD payment goal will be met.

A payment submission that will **not** make the annual installment requires advance notice to the authorizing borrower. The County Office will document the notice in the case file (or FBP if appropriate).

- *--FAX a copy of each accurate and complete RD 3550-28 to CB at 314-457-4370

Note: If using fax2mail, type //FINE at the end of the subject line. This method will be used for all PAD related contact with CB.

- retain each original RD 3550-28 in the borrower's case file (position 2).

D RD Business Center Actions

Upon receipt of RD 3550-28, CB will update the PAD agreement into the PAD stand-alone system. Allow up to 20 workdays for CB to establish a borrower in the PAD system.

PAD confirmation letters are created by CB when a new account is established or when a change is made to an existing account. The letters are sent to the Field Office and borrower.

Note: The County Office will complete a thorough review of all PAD confirmation letters immediately after they are received from the RD Business Center, CB. If an error is identified, CB should be contacted by FAX as listed in 1-FLP.--*

67 Managing PAD**A PAD Payments and Receipts**

Scheduled PAD payments are withdrawn from borrowers' FI accounts and updated to PLAS (ADPS). FASB manually applies any payments that do not automatically update to PLAS. The PAD transaction will be reflected on the statement the borrower receives from their FI. The statement is the borrower's payment receipt.

If a correction to an existing PAD agreement needs to be made, it should be clearly marked *--as a correction at the top of RD 3550-28 and FAXed to CB. The correction should be sent to CB at least 5 workdays before the correction request date.--*

B Dealing With Non-Payment

When the FI cannot post the PAD transaction to the designated borrower's account, the FI is *--instructed by CB to reject the transaction.

When a PAD transaction is rejected, CB contacts the County Office to verify the reason for rejection (such as insufficient funds, account closed, payment stopped), and to determine how the rejected payment will be collected. CB cannot proceed until the rejection is *--resolved; a timely reply from the County Office will expedite the process.

If the reason for the rejection is no fault of the borrower, the original credit date will be given when the resolution takes place.

*--If a borrower has 3 concurrent rejections, the PAD agreement will be terminated. See *--subparagraph E.

C Restructures and Assumptions

When a loan on PAD is being considered for restructuring or assumption, the County Office *--must FAX a detailed memo to CB to terminate the original RD 3550-28. To avoid *--additional payment withdrawals this should be done at least 5 workdays before the termination request date.

The County Office will notify the borrower that PAD is being canceled to process the restructuring or assumption. A record of the notification will be kept in the case file (or FBP if appropriate). This is not an adverse decision.

After a restructure of a loan formerly on PAD, the County Office will notify the borrower of the continued availability of PAD and provide the borrower with RD 3550-28. A record of the notification will be kept in the case file (or FBP if appropriate).

67 **Managing PAD (Continued)****D Final Payments**

To ensure proper account coding, final payments should not be submitted through PAD, but by the County Office through NRRS. County Office should take future PAD withdrawals into account when calculating final payments to reduce the number of refunds.

--At least 5 workdays before loan pay off, County Office should notify CB to terminate-- PAD. The County Office will notify the borrower that PAD has been terminated to reduce the risk of overpayment and to ensure proper accounting of the final payment. A copy of the notification will be kept in the case file (or FBP if appropriate). This is not an adverse decision.

--If the PAD cancellation is not processed before the payoff and a PAD payment is drafted, the County Office must notify CB requesting refund of the drafted PAD. CB will notify CSB. The refund process can take up to 2 weeks to be completed by CSB.--

E Canceling PAD

A borrower may voluntarily cancel PAD by submitting a written request to the County Office. Within 5 workday of receipt of borrower's request to cancel PAD, County Office

*--should notify CB to terminate PAD by detailed letter. A copy of the borrower's request and County Office's letter will be kept in the case file.

If a borrower has 3 concurrent rejections, the PAD agreement will be terminated by the Agency. CB will notify County Office that the PAD agreement has been terminated for--* too many rejections. This is not an adverse decision.

F Additional Information

Below is a description of how the Bi-Weekly and Weekly PAD debits work.

- Bi-Weekly:
 - is always the 1st and 3rd or 2nd and 4th week of the month of any day of week
 - cycle (1st and 3rd) or (2nd and 4th) the initial payment falls on.

Note: There will always be (2) debits per month and all will fall on the same day of the week. The initial debit cannot be the 5th week of the month.

Example: If a borrower chooses to have their first payment pulled on Sunday, May 1, the actual debit from their account would be on May 2nd and then on May 16th. In this case, their debit will always be on the 1st and 3rd Mondays of the month and the date of credit will be on the 1st and 3rd Sundays of the month, etc.

67 Managing PAD (Continued)

F Additional Information (Continued)

Bi-Weekly 2 is always on the 1st and 15th of the month.

Note: There will always be (2) debits per month and the day of the week will vary from month to month. The initial debit must be on the 1st or 15th of the month.

Example: If a borrower chooses to have their first payment pulled on Sunday, May 1st, the actual debit from their account would be on May 2nd and then on May 16th. In this case, their debit will always be on the 1st and 15th of the month and the actual debit will be on that date unless it falls on a weekend and then it will be the following Monday. The credit date will always be the 1st and 15th.

Weekly 1 is always the 1st, 2nd, 3rd, and 4th week of the month of any day of the week the initial payment falls on.

Note: There will always be (4) debits per month and all will fall on the same day of the week. The initial debit cannot be the 5th week of the month.

Example: If a borrower chooses to have their first payment pulled on Sunday, May 1st, the actual debit from their account would be on May 2nd, then May 8th would debit on May 9th, then May 15th would debit on May 16th and then May 22nd would debit on May 23rd. If a borrower chooses to have their first payment pulled on May 24th, then the next debit would be on Monday, June 7th. Thereafter, June 14th, June 21st, and June 28th. There would be no debit for the last Tuesday in May, which is May 31st.

Weekly 2 is always on the 1st, 8th, 15th, and 22nd of the month. There will always be (4) debits per month and the day of the week will vary from month to month. The initial debit **must** be on the 1st, 8th, 15th, or 22nd of the month.

Example: If a borrower chooses to have their first payment pulled on Sunday, May 1st, the actual debit from their account would be on May 2nd, then May 8th would debit on May 9th, then May 15th would debit on May 16th and then May 22nd would debit on May 23rd.

97 Maintaining Debt Instruments**A Identifying Debt Instruments**

Debt instruments are documents that show a debt owing with the terms of the debt amount, interest rate, years, etc. These instruments can include any of the following:

- accelerated repayment agreements
- approved debt settlement applications
- assumption agreements
- bankruptcy plans and/or stipulations accompanied by the confirmation order showing approval by the court and, when appropriate, discharge orders
- cost voucher documents
- court ordered or debt settlement documents
- promissory notes
- FSA-2543's
- suspension agreements.

Note: Many of these documents are considered essential FLP records that require maximum *--protection and must be filed and locked in fire-resistant file cabinets, according to 32-AS, subparagraph 59 A.--*

97 Maintaining Debt Instruments (Continued)

B Conducting Yearly Debt Instrument Inventory

--In March of each year, the RD Business Center, FaSB provides County Offices with-- RC 830A listing all borrowers who should have debt instruments maintained in the County Office.

RC 830A includes the following for each borrower:

- name and case number
- fund code and loan numbers
- date of loan
- interest rate
- amount of noncapitalized interest, if applicable
- principal loan amount
- account flag.

When RC 830A is received, County Offices shall:

- verify that the debt instruments exist

Notes: Debt instruments such as bankruptcy plans and discharge orders should be attached to the instruments which they amend.

Shared appreciation payment agreements are not currently reflected on RC 830A, but should be noted and checked for accuracy.

- compare the information provided on RC 830A to the related debt instrument to identify any discrepancies

Note: Review findings shall be documented on RC 830A.

97 Maintaining Debt Instruments (Continued)

B Conducting Yearly Debt Instrument Inventory (Continued)

- take necessary corrective action when the:
 - difference in the principal loan amount or noncapitalized interest amount is more than \$100
 - interest rate must be corrected

Note: Attach a copy of the letter changing the interest rate to the promissory note (it is **not** necessary to correct promissory notes when the rate on the promissory note does not match RC 830A as a result of the interest rate being modified based on a limited resource review).

- obtain guidance from the OGC regional attorney, through the State Office, about any necessary corrections to promissory notes, or shared appreciation agreements
- ensure that copies of all instruments are filed in case files
- submit cases requiring corrections to the State Office coordinator on FSA-2446 and State *--Office coordinators will send completed FSA-2446's to the RD Business Center,--* FaSB. See 1-FLP, subparagraph 5 B.

Note: State Office coordinators should track and monitor the submission and resolution of account corrections using FSA-2445.

- obtain guidance from OGC regional attorney, through the State Office, about the need to replace lost or missing debt instruments
- advise SED of the review results by July 31 of each year and retain RC 830A as a subdivided file under FLP-1-B, "Reports" according to 32-AS until the next year's report has been received and reviewed.

98 Maintaining Security Instruments

A Maintaining Security Documents

Each County Office must maintain security instruments according to 32-AS.

*--An FSA UCC Security Guide is available for guidance on perfecting and maintaining interest in non-real estate security. This is available from the Farm Loan Programs Systems page at <https://intranet-apps.fsa.usda.gov/flp/IndexServlet>. Under “Informational Links”, CLICK “FLP Training SharePoint” to go to the Farm Loan Programs Training SharePoint page.

Even if a borrower is being serviced under a bankruptcy plan, it is critical that the FSA UCC financing statement does not lapse. A continuation financing statement must be filed when necessary. FSA is permitted to do so without obtaining relief from the automatic stay according to 11 U.S.C. 362 (b)(3). See 5-FLP, Part 11 for additional bankruptcy guidance.--*

B Maintaining Current Information

FSA must review or renew financing statements, security agreements, and other documents for each borrower periodically. County Offices shall use DLS to identify and track security instruments that need to be continued or updated. The authorized agency official will notify the borrower of any required information and documents. Notification, if not made in writing, should be documented in FBP.

C Obtaining Subsequent FSA-2028's

FSA obtains new FSA-2028's when:

- a security interest is taken in crops, if an interest was not previously obtained
- FSA obtains additional security new or additional security through a new loan or PLS
- modifications to the security listed on the working copy of current FSA-2028's have been made
- deemed necessary to protect FSA's security interests.

SED will issue a State supplement to specify when to obtain a subsequent FSA-2028 based on State law.

D Direct Operating Loan-Micro Loan (DOL-ML) Identification Requirements for new FSA-2028's

For each DOL-ML, an “M” and the fund code and loan number will remain next to the security for that loan, unless the loan is serviced according to 5-FLP. If a loan is serviced under 5-FLP as a delinquent borrower, the “M”, fund code, and loan number will be discontinued.

98 Maintaining Security Instruments (Continued)

D Direct Operating Loan-Micro Loan (DOL-ML) Identification Requirements for new FSA-2028's (Continued)

Example 1: Borrower has a DOL-ML 44-01 secured by a tractor. A subsequent DOL-ML is made for the purchase of a plow. On the subsequent FSA-2028, only the tractor and plow will be listed as security. The servicing official will include next to the tractor "(M-44-01)" and plow "(M-44-02)".

Example 2: Borrower has a DOL-ML 44-01 secured by a tractor, a subsequent DOL-ML 44-02, secured by a plow, and a subsequent DOL-ML 44-03 secured by 20 goats. Because of a designated weather disaster, the borrower has applied for and is eligible for PLS. Based upon eDALR\$ calculation, loans 44-01 and 44-02 are current and will not receive servicing, loan 44-03 will be restructured as a delinquent borrower. In the subsequent FSA-2028, the servicing official will include next to the tractor "M-44-01" and "M-44-02" next to the plow. The goats will no longer have the "M", fund code, and loan number designations.

Example 3: Borrower has a DOL-ML 44-01 secured by a tractor, a subsequent DOL-ML 44-02, secured by a plow, and a subsequent DOL-ML 44-03 secured by 20 goats. Because of a designated weather disaster, the borrower is past due, has applied for, and is eligible for PLS. Based upon eDALR\$ calculation, loans 44-01 and 44-02 are current, loan 44-02 will not receive servicing, loans 44-01 and 44-03 will be restructured as past due borrower. In the subsequent FSA-2028, the servicing official will include a complete listing all assets (crops, machinery, equipment, livestock, poultry, etc.). Next to the plow the servicing official will include "M-44-02". If separate and identifiable livestock security cannot be clearly established and/or maintained, all of the type of livestock purchased with DOL-ML funds will be listed on FSA-2028 and identified with an "(m)" and the applicable loan numbers "(xx-xx)".

Example 4: Borrower owned 20 cows before DOL-ML. Borrower used DOL-ML to purchase 20 additional cows. Forty cows will be listed on FSA-2028 and identified with "(M-XX-XX)".

E Continuing, Amending, or Obtaining New Financing Statements

Unless State law provides otherwise, financing statements filed according to UCC are effective for 5 years from the filing date. The authorized agency official must continue existing financing statements to retain FSA's security position beyond the original 5-year period. The authorized agency official will file the appropriate continuation form within the 6-month period before the end of the current 5-year period to extend the effective date of the original filing for an additional 5 years.

Note: A lien search is not required when the financing statement is properly continued.

98 Maintaining Security Instruments (Continued)**E Continuing, Amending, or Obtaining New Financing Statements (Continued)**

The authorized agency official shall amend or file a new financing statement only if the debt will be additionally secured either by:

- property not already described specifically or by type in the existing financing statement
- crops growing or to be grown that are not already covered by the existing financing statement
- fixtures not already described on the existing financing statement.

SED's will issue State supplements as needed to provide additional guidance and ensure compliance with State laws and procedures. Supplements should include the appropriate forms to be used for continuation, amendment, or new filings.

F Purchase Money Interest (PMI) Identification Requirements for New FSA-2028's

If separate and identifiable livestock security cannot be clearly established, all of the type of livestock purchased with loan funds will be listed on the security agreement and the PMI identifier (*) will be used with a "Note" showing the number of livestock originally purchased with loan funds.

Example: Borrower used loan funds to purchase 100 cows. Borrower owned 100 cows before receiving the loan. Borrower now also owns 25 bred heifers. The FSA-2028 will list 225 cows identified with (*) PMI and note-PMI in 100 cows.

* * *

98 Maintaining Security Instruments (Continued)

* * *

G Obtaining Assignments

FSA may require that borrowers assign FP payments to FSA for FLP loan payments. Assignments for program payments will be maintained according to 63-FI.

SED's will issue State supplements as needed to:

- provide guidance on maintaining existing assignments
- ensure compliance with State laws.

H Real Estate Security Instruments

Real estate security instruments will be obtained, corrected, amended, or continued according to applicable State law. SED's will issue State supplements to provide guidance for complying with State requirements.

99 Borrower Responsibilities for Complying With Loan Instruments**A General Policy**

[7 CFR 765.202] **The borrower must:**

(a) Comply with all provisions of the loan agreements;

(1) Non-compliance with the provisions of loan agreements and documents, other than failure to meet scheduled loan repayment installments contained in the promissory note, constitutes non-monetary default on FLP loans by the borrower;

(2) Borrower non-compliance will be considered by the Agency when making eligibility determinations for future requests for assistance and may adversely impact such requests;

99 Borrower Responsibilities for Complying With Loan Instruments (Continued)**B Borrower Responsibilities**

[7 CFR 765.202] The borrower must:

- (b) Maintain, protect, and account for all security;**
- (c) Pay the following, unless State law requires the Agency to pay:**
 - (1) Fees for executing, filing, or recording financing statements, continuation statements or other security instruments; and**

Notes: Exhibit 28 will be used to inform the borrower of any fees required.

--Exhibit 28.4 will be used for borrowers in bankruptcy.--

- (2) The cost of lien search reports;**
- (d) Pay taxes on property securing FLP loans when they become due;**
- (e) Maintain insurance coverage in an amount specified by the Agency;**
- (f) Protect the interests of the Agency when a third party brings suit or takes other action that could affect Agency security.**

C Requirement to Operate Security

[7 CFR 765.251] **(a) A borrower is required to be the operator of Agency security in accordance with loan purposes, loan agreements and security instruments. See operator in Exhibit 2.**

(b) A borrower who fails to operate the security without Agency consent is in violation of loan agreements and security instruments.

(c) The Agency will consider a borrower's request to lease or cease to operate the security as provided in §§ 765.252 and 765.253 (subparagraphs D and E).

D Conditions for FSA Consent to Borrower Ceasing to Operate

[7 CFR 765.253] **If the borrower requests Agency consent to cease operating the security or if the Agency discovers that the borrower is failing to operate the security, the Agency will give consent if:**

- (a) Such action is in the Agency's best interests;**
- (b) The borrower is unable to graduate on any program except for CL;**
- (c) The borrower is not ineligible as a result of disqualification for Federal Crop Insurance violation according to 7 CFR part 718;**

117 Conditions for Real Estate Subordinations**A Real Estate Security**

[7 CFR 765.205(b)] For loans secured by real estate, the Agency will approve a request *--for subordination subject to the following conditions:

- (1) If a lender requires that the Agency subordinate its lien position on the borrower's existing property in order for the borrower to acquire new property and the request meets the requirements in paragraph (b) (3) of this section (subparagraph 117 A), the request may be approved. The Agency will obtain a valid mortgage and the required lien position on the new property. The Agency will require title clearance and loan closing for the property in accordance with § 764.402 of this chapter (3-FLP, Part 16).**
- (2) If the borrower is an entity and the Agency has taken real estate as additional security on property owned by a member, a subordination for any authorized loan purpose may be approved when it meets the requirements in paragraph (b)(3) of this section (subparagraph 117 A) and it is needed for the entity member to finance a separate farming operation. The subordination must not cause the unpaid principal and interest on the FLP loan to exceed the value of loan security or otherwise adversely affect the security.**
- (3) The Agency will approve a request for subordination of real estate to a creditor if:**
 - (i) The loan will be used for an authorized loan purpose or is to refinance a loan made for an authorized loan purpose by the Agency or another creditor;**
 - (ii) The credit is essential to the farming operation, and the borrower cannot obtain the credit without a subordination;**
 - (iii) The FLP loan is still adequately secured after the subordination, or the value of the loan security will be increased by an amount at least equal to the advance to be made under the subordination;**
 - (iv) Except as authorized by paragraph (c)(2) of this section (subparagraph 118 B), there is no other subordination outstanding with another lender in connection with the same security;**
 - (v) The subordination is limited to a specific amount;**
 - (vi) The loan made in conjunction with the subordination will be closed within a reasonable time and has a definite maturity date;**
 - (vii) If the loan is made in conjunction with a guaranteed loan, the guaranteed loan meets the requirements of § 762.142(c) of this chapter (2 FLP, paragraph 279);**
 - (viii) The borrower is not in default or will not be in default on FLP loans by the time the subordination closing is complete;--***

117 Conditions for Real Estate Subordinations (Continued)

A Real Estate Security (Continued)

(ix) The borrower can demonstrate, through a current farm operating plan, the ability to repay all debt payments scheduled, and to be scheduled, during the production cycle;

(x) Except for CL, the borrower is unable to partially or fully graduate;

***--Note:** Account classification must have been completed within the last 24 months as required by 1-FLP, Part 8, Section 4. For accounts classified as 1 or 2, graduation review must have been completed according to requirements of Part 4.--*

(xi) The borrower must not be ineligible as a result of a conviction for controlled substances according to part 718 of this chapter (1-CM);

(xii) The borrower must not be ineligible due to disqualification resulting from Federal crop insurance violation according to part 718 of this chapter (1-CM);

(xiii) The borrower will not use loan funds in a way that will contribute to erosion of highly erodible land or conversion of wetlands as described in part 799 of this chapter; (1-EQ and 6-CP)

(xiv) Any planned development of real estate security will be performed as directed by the lessor or creditor, as approved by the Agency, and will comply with the terms and conditions of § 761.10 of this chapter (1-FLP);

(xv) If a borrower with an SAA mortgage is refinancing a loan held by a lender, subordination of the SAA mortgage may only be approved when the refinanced loan does not increase the amount of debt; and

(xvi) In the case of a subordination of non-program loan security, the non-program loan security also secures a program loan with the same borrower.

***--Note:** Before approval of any subordination, borrower's ability to graduate to commercial credit must be considered and documented.--*

(4) The Agency will approve a request for subordination of real estate to a lessee if the conditions in paragraphs (b)(3)(viii) through (b)(3)(xvi) of this section are met (subparagraph 117 A).

Note: Real estate subordination to a lessee must be approved by SED.

B Releasing and Refiling Lien Instruments Instead of Subordination

SED's may approve releasing and refiling lien instruments instead of subordination when the request meets the following:

- application meets requirements in subparagraphs 116 A and 117 A

117 Conditions for Real Estate Subordinations (Continued)

B Releasing and Refiling Lien Instruments Instead of Subordination (Continued)

- subordination is unacceptable to the lender refinancing the borrower's loan

Note: The refinanced loan will be sold on the secondary market and a first lien is required.

- the borrower agrees to execute new security instruments

***--Notes:** The new security instruments will be refiled immediately following the lender's security instrument securing the loan.

SED will consult OGC to obtain instructions in protecting FLP's lien position. SED will issue a State supplement to provide additional guidance and ensure compliance.--*

- no additional debt will be placed ahead of FLP's debt, except for customary costs appropriate to the transaction

Notes: If construction is started before a request is received, approval will not be provided.

See subparagraph 197 B for customary costs.

- the refinancing will result in better repayment terms that, except for CL, will assist the borrower in progressing toward graduation.

Note: SED's may delegate their approval authority for releasing and refiled lien instruments instead of subordination to FLC, FLS, or DD.

118 Conditions for Chattel Subordinations

A Chattel Security

[7 CFR 765.205(c)] The requirement for chattel subordinations are as follows: (1) For loans secured by chattel, the subordination must meet the conditions contained in paragraphs (b)(3)(i) through (xiii) of this section (subparagraph 117 A). Multi-year subordinations may only be approved according to OGC-approved State supplements.

Multi-year subordination must meet all requirements set forth in this subparagraph. State supplements must specifically address the following:

- borrower's inability to obtain credit without subordination, including guarantee
- borrower's inability to partially graduate
- borrower's ability to pay debt before funds are released for each production cycle
- advances for the subsequent years are not authorized without FSA's written consent.

118 Conditions for Chattel Subordinations (Continued)**B Second Subordinations on Chattel Security**

[7 CFR 765.205(c)(2)] The Agency will approve a request for a second subordination to enable a borrower to obtain crop insurance, if the following conditions are met:

(i) The creditor to whom the first subordination was given did not provide for payment of the current year's crop insurance premium, and consents in writing to the provisions of the second subordination to pay insurance premiums from the crop or insurance proceeds;

(ii) The borrower assigns the insurance proceeds to the Agency or names the Agency in the loss payable clause of the policy; and

(iii) The subordination meets the conditions under paragraphs (b)(1) through (12) of this section (subparagraph 117 A).

C CCC Loans

CCC-679's will be used according to 8-LP instead of a subordination when FP makes a CCC loan to the borrower. FSA does not subordinate to CCC loans.

119 Appraisal Requirements**A Appraisals**

[7 CFR 765.205(d)] An appraisal of the property that secures the Agency loan will be required when the Agency determines it necessary to protect its interest. Appraisals will be obtained in accordance with § 761.7 (1-FLP) of this chapter.

At a minimum, real estate appraisals will be obtained when property is to be improved, purchased, or exchanged. FSA does not require an appraisal for real estate security when *--either of the following occur:--*

- borrower's case file contains an existing appraisal that is less than 1 year old and FSA determines the appraisal to still be sufficiently accurate
- loan for which the borrower requests the subordination is:
 - to refinance an existing prior lien and the resulting prior lien will **not** be increased except for customary costs appropriate to the transactions

Note: See subparagraph 197 B for customary costs.

- for an essential repair that is needed to restore the value of the security and complies with subparagraph 117 A.

119 Appraisal Requirements (Continued)

A Appraisals (Continued)

FSA does **not** require an appraisal for chattel security when the:

- proposed subordination is for annual operating and family living expenses only and the projected income from farm production exceeds the subordination amount
- existing FSA chattel appraisal is less than 1 year old and the authorized agency official determines it to be adequate (the authorized agency official must consider property additions to, and deletions from, the latest FSA appraisal) and fully document the decision.

Note: Exceptions may be requested according to paragraph 4 for appraisals completed between 12 and 18 months ago which have not been updated by the appraiser.

120 Approving or Denying Subordination Requests

A Approval Authority

Except for SED's, approval officials may approve subordinations if the amount of the subordination, plus the principal balance of existing subordinations, is not more than their approval authority for the type of loan being subordinated. When the lien priority for more than 1 type of loan is subordinated, the total amount of the approval official's authority will be limited to the loan with the lowest approval authority for that official. SED authority to approve subordinations is limited to \$1 million total EM indebtedness; otherwise, SED's may approve subordinations regardless of the amount. SED's may delegate their authority for approving subordinations to FLC, FLS, or DD.

Note: SED's are the only FSA officials with approval authority for subordinating real estate security for an operating-type loan purpose.

The authorized agency official may approve the subordination by executing the electronic signature command in the credit presentation section of FBP. Under the electronic signature, the approval official may designate the local servicing official the responsibility to execute agency and required legal documents to complete the subordination.

The authorized agency official must include in the physical case file, all components of FBP that require signatures as provided in the FPB User Guide, available at <https://inside.fsa.usda.gov/program-areas/daflp/software-manuals/index>.

The authorized agency official will sign FSA-2455 or any other format required in State supplements, as necessary, to meet State legal requirements.

Once a request is approved, it is closed according to State supplements. The authorized agency official must enter the date that FSA approves a request in DLS.

120 Approving or Denying Subordination Requests (Continued)

B Appeal Rights

If a request under this section cannot be approved, the borrower will be notified of all appeal rights according to 1-APP.

121-125 (Reserved)

Section 5 Release of Real Estate and Chattel Security Liens Without Monetary Consideration

146 Release Without Monetary Consideration

A Approval

SED may approve a release request by executing FSA-2060, FSA-2470, or other documents *--approved by OGC. Before approval of a release without monetary consideration, borrower's ability to graduate to commercial credit must be considered and documented.--*

* * * The transaction may be approved by using the electronic signature command in the credit presentation section of FBP. SED may designate responsibility to an authorized agency official to execute agency and required legal documents to complete the transaction in FBP. All components of FBP that requires signatures must be included in the physical case file.

B Release Because of Mutual Mistakes

SED's can authorize a release because of mutual mistakes only when they do all of the following:

- determine that a mutual error existed when the security was included in FSA's mortgage or lien
- obtain OGC's advice on whether a mutual mistake was made
- substantiate that the mistake was made
- document the findings in the borrower's FBP credit presentation.

C Release Because of No Evidence of Indebtedness

SED may release a borrower's mortgage or lien, if the records of State and County Offices *--and the RD Business Center, FaSB contain no evidence of an existing indebtedness--* secured by the mortgage or lien.

Note: The authorized agency official should verify that the borrower has no outstanding debt with the Rural Development. The findings should be documented in the borrowers FBP credit presentation.

146 Release Without Monetary Consideration (Continued)

D Borrower Requested Chattel Security Release

[7 CFR 765.305(c)] The Agency will release its lien on chattel security without compensation, upon borrower request provided:

- (1) The borrower has not received primary loan servicing or Disaster Set-Aside within the last 3 years;**
- (2) The borrower will retain the security and use it as collateral for other credit, including partial graduation as specified in § 765.101 (Part 4);**
- (3) The security margin on each FLP direct loan will be 150 percent or more after the release. The value of the retained and released security will normally be based on appraisals obtained as specified in § 761.7 of this chapter (1-FLP, Part 6); however, well documented recent sales of similar properties can be used if the Agency determines a supportable decision can be made without current appraisals;**
- (4) The release is approved by the FSA State Executive Director; and**
- (5) Except for CL, the borrower is unable to fully graduate as specified in § 765.101 (Part 4).**

The authorized agency official will prepare FBP credit presentation explaining how each of the applicable conditions above are met and submit the narrative along with supporting *--documentation to the State Office for review and concurrence. To meet the 3-year requirement for not having received PLS or DSA, the borrower's request can only be made at least 3 years since their initial loans. Supporting documentation will include all--* calculations and copies of any well-documented recent sales, such as recent auctions, or other transactions in the area. State Office officials will review the request and if they concur, submit the request to the SED for approval.

E Borrower Requested Real Estate Security Release

[765.351(f)] Real estate security may be released by FSA without compensation when the requirements of paragraph (a) of this section (subparagraph 196 B), except paragraph (a)(3) of this section (subparagraph 196 B), are met, and:

- (1) The borrower has not received primary loan servicing or Disaster Set-Aside within the last 3 years;**
- (2) The security is:**
 - (i) To be retained by the borrower and used as collateral for other credit, including partial graduation as specified in § 765.101 (Part 4); or**

161 General Requirements (Continued)

F Furthering FSA Program Objectives

[7 CFR 765.301(f)] The disposition must enhance the program objectives of the Agency loan.

G Security Exchange or Replacement

[7 CFR 765.301(g)] When the borrower exchanges security property for other property or purchases new property with sale proceeds, the acquisition must be essential to the farming operation as well as meet the program objectives, purposes, and limitations for the type of loan.

H Proceeds Payable to Both the Borrower and FSA

[7 CFR 765.301(h)] All checks, drafts, or money orders which the borrower receives from the sale of Agency security must be payable to the borrower and the Agency. If all *--FLP loan installments and any past due installments, for the period of the agreement--* for the use of proceeds have been paid, however, these payments from the sale of normal income security may be payable solely to the borrower.

162 * * * Agreement for Disposition of Normal Income and Basic Chattel Security***--A Agreement for the Use of Proceeds--***

[7 CFR 765.302(a)] The borrower and the Agency will execute an agreement for the use of proceeds. FSA, in consultation with the borrower, will complete the FSA-2040 to describe plans for disposition of security and use of proceeds. Borrower will review the FSA-2040, initial and sign it in the designated places. For borrowers with:

- normal income security, the agreement shall be updated * * *, as necessary, to reflect changes in the operation
- basic income security only, the agreement shall be updated as part of a scheduled * * * review (1-FLP, paragraph 223) or as necessary to reflect changes in the operation.

--B Using the Agreement for the Use of Proceeds--

[7 CFR 765.302(b)] The borrower must report any disposition of basic or normal income security to the Agency as specified in the agreement for the use of proceeds.

[7 CFR 765.302(c)] If a borrower wants to dispose of normal income security in a way different than provided by the agreement for the use of proceeds, the borrower must obtain the Agency's consent before the disposition unless all FLP payments planned on the agreement have been paid.

[7 CFR 765.302(d)] If the borrower sells normal income security to a purchaser not listed in the agreement for the use of proceeds, the borrower must immediately notify the Agency of what property has been sold and of the name and business address of the purchaser.

162 * * * Agreement for Disposition of Normal Income and Basic Chattel Security (Continued)***--B Using the Agreement for the Use of Proceeds (Continued)--***

FSA will record the disposition of security on FSA-2045. When the borrower sells chattel security and notifies FSA, the authorized agency official must complete FSA-2045 to record the:

- description of security sold
- quantity of security sold
- way in which security was sold (such as to a wholesaler, to a neighbor, etc.)
- date of sale
- amount of proceeds received
- use of proceeds (exact amount recorded for debt repayment, operating expenses, family living, or capital purchases).

The authorized agency official must indicate whether approval is granted for the disposition and use of proceeds by marking “yes” or “no”, initialing, and dating the agreement in the appropriate location. If the disposition or use of proceeds is not authorized on the agreement, the authorized agency official shall take action according to Part 7, Section 2.

Normal income security dispositions will continue to be reported and recorded until all annual installments due to FSA have been paid current. Basic security dispositions must be reported until FSA no longer has a lien against the security.

C Government Payments and Insurance

The borrower must submit documentation of all Government payments, crop insurance, and insurance proceeds derived from the loss of security.

162 * * * Agreement for Disposition of Normal Income and Basic Chattel Security (Continued)

--D Modifying and Updating Agreements for the Use of Proceeds--

[7 CFR 765.302(e)] The borrower must provide the Agency with the necessary information to update the agreement for the use of proceeds.

[7 CFR 765.302(f)] Changes to the agreement on the use of proceeds will be recorded, dated, and initialed by the borrower and the Agency.

FSA and the borrower will document agreed upon changes to FBP and FSA-2040 through entering, initialing, and dating mutually accepted modifications as indicated for each FBP and FSA-2040. See 1-FLP, Part 8, Section 3.

Note: The authorized agency official and the borrower must complete a new FBP and revise FSA-2040 for major changes to the borrower's farming operation.

SED's may issue further guidance as needed on the changes that require FBP revision or replacement.

When FSA and the borrower agree to revisions over the telephone, the authorized agency official will:

- initial and date the change
- mark FBP or FSA-2040 with "Revised through telephone contact."
- send written confirmation to the borrower of any significant changes
- have the borrower date and initial the change the next time the borrower is in the County Office.

Section 2 Unapproved Disposition of Security**181 Initial FSA Actions Upon Discovery****A Unauthorized Chattel Security Disposition Discoveries**

[7 CFR 765.304(a)] If a borrower disposes of chattel security without Agency approval, or misuses proceeds, the borrower must:

(1) Make restitution to the Agency within 30 days of Agency notification; or

(2) Provide disposition or use information to enable the Agency to consider post-approval within 30 days of Agency notification.

Borrower disposal of security or use of proceeds in a way not listed on FSA-2040 violates the loan agreement and FSA will not release its security interest.

Upon noting an apparent unauthorized disposition of security, FSA will notify the borrower using Exhibit 31.

***--Note:** If a borrower has been discharged in bankruptcy of all FSA debt and security has not been liquidated when FSA discovers the unauthorized disposition, use Exhibit 31.5.--*

The authorized agency official must document an unapproved disposition of chattel security on FSA-2045, FSA-2551, and in the borrower's FBP. The borrower will also be initialized into DLS Special Servicing under the "Borrower Potentially Commits a Non-Monetary Default" category and tracked until servicing is completed. DD will review any unauthorized dispositions being tracked in DLS Special Servicing as part of the Quarterly Review.

If the borrower does not make restitution or provide information necessary for FSA to post-approve the sale within 30 calendar days, the authorized agency official will notify the borrower of nonmonetary default according to 5-FLP, Part 3, and proceed according to 5-FLP, Part 11, Section 2.

181 Initial FSA Actions Upon Discovery (Continued)

B Notification to Third Party Purchasers

With SED concurrence, the authorized agency official will send Exhibit 32 * * * to third-party purchasers when the:

- disposition cannot be approved
- third party has purchased collateral for an FSA loan
- borrower is unable or unwilling to make restitution and has been notified according to 5-FLP, Part 3.

If the borrower's account is in liquidation, FSA will often attempt to liquidate remaining chattel security on which FSA holds a first lien before making demand or taking civil action against third-party purchasers. Exhibit 32 makes demand on the third-party purchaser to return the property or pay the value of the security to FSA within 30 calendar days.

If no response has been received within 30 calendar days, Exhibit 33 will be forwarded to the purchaser by SED. If satisfaction is not made within 15 calendar days, SED will forward the account to OGC according to 5-FLP, paragraph 421.

**Section 3 Real Estate Security Releases, Exchanges or other Disposition
of Portion or Interest****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.

Notes: This section also applies to subordinations and nondisturbance agreements made for nonlending purposes.

--This section also covers the sale of water and water rights.--

The borrower must:

- complete and sign FSA-2060 with the assistance of the authorized agency official
- provide a written contract or an agreement for the property indicating the price and terms of the transaction
- sell the property for not less than the appraised value unless FSA is being paid in full.

Borrower's request to sell real estate at public auction may only be approved through an Administrator's Exception. In addition to information required under subparagraph 4 B, the request will also address:

- auctioneer's experience with selling real estate
- auctioneer's plan for advertising auction including where advertisements will be placed and how long they will run
- how the auction will maximize FSA recovery over a traditional sale through a realtor.

196 Requirements (Continued)

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 146 E), 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 subparagraph 146 E.

[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;

[7 CFR 765.351(a)] (6) The environmental requirements of part 799 of this chapter must be met (1-EQ and 6-CP);

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

196 Requirements (Continued)

B Conditions for Approval (Continued)

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

***--Note:** Account classification must have been completed within the last 24 months as required by 1-FLP, Part 8, Section 4. For accounts classified as 1 or 2, graduation review must have been completed according to requirements of Part 4.--*

[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, Other Minerals, Water, or Water Rights--

[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 FLP loan will be considered a disposition of a portion of the security.

Note: When renewable annual sales of timber can be projected, the proceeds may be treated as normal income.

(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.

--The sale of water or water rights from real estate that secures an FLP loan will be considered a disposition of a portion of the security.--

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.

246 Transfer of Security and Assumption of Debt (Continued)**E Determining the Assumption Amount**

[7 CFR 765.403(d)] **The transferee must assume the lesser of:**

- (1) The outstanding balance of the transferor's loan; or**
- (2) The market value of the security, less prior liens and authorized costs, if the outstanding loan balance exceeds the market value of the property.**

F Determining the Value of the Security Property

The value of the security property must be determined before approving a transfer and assumption. Appraisals will be conducted according to 1-FLP, Part 6. The appraisal determines the value of the security and the amount of the indebtedness that may be assumed.

G Forgiveness of Youth Loan Debt

Notwithstanding any other FSA regulation, forgiveness of youth loan debt, because of circumstances beyond the borrower's control, does not preclude the applicant, or any member of an entity applicant, from obtaining additional direct or guaranteed loans from FSA. This includes assumption of FSA debt or any other financial assistance that cites this section as part of its eligibility. The criteria for determining if the forgiveness was beyond the borrower's control are the same criteria used in 7 CFR section 766.104(a)(1). Any borrower who met those criteria when the youth loan was forgiven will not be denied loan assistance based on forgiveness of youth loan debt. Debt that was forgiven on any other type of loan, even with the same borrower, is still considered according to the present regulations and can preclude the applicant from receiving a loan from FSA.

247 Types of Transfers and Assumptions**A New Eligible Borrower**

[7 CFR 765.403(a)] **The Agency may approve transfers of security with assumption of Agency debt, other than EM loans for physical or production losses, by transferees eligible for the type of loan being assumed if:**

- (1) The transferee meets all loan and security requirements in part 764 (3-FLP) of this chapter for the type of loan being assumed; and**
- (2) The outstanding loan balance (principal and interest) does not exceed the maximum loan limit for the type of loan as contained in § 761.8 (1-FLP) of this chapter.**

--Transfer of security and assumption of debt for a new eligible borrower is completed at new rates and terms. If the debt for the existing borrower is delinquent, the delinquency is resolved when the transfer and assumption at new rates and terms is completed.--

247 Types of Transfers and Assumptions (Continued)

A New Eligible Borrower (Continued)

Before a sale, the borrower and the proposed transferee should contact their local FSA office and submit or participate in completion of the documents to initiate the transfer and assumption process.

--The completed documents must include, as applicable:--

- complete application by the proposed transferee for the type of loan and amount of debt to be assumed according to 3-FLP, Part 3
- narrative by the authorized agency official describing the proposal
- appraisal from the transferor's file, with a copy to the transferee's file
- transferring "deed" or "bill of sale" from the transferor to the transferee
- FSA-2025
- FSA-2060
- FSA-2080, if applicable
- FSA-2476
- FSA-2489
- additional documents such as UCC1's, FSA-2028's, and mortgages as required.

B Adding a New Member to a Borrower Entity

To add new entity members to an existing borrower entity, the proposed individual entity members and the entity as a whole must meet the eligibility requirements as defined in *--3-FLP, Part 4. Adding a new member to a borrower entity is completed at same rates and terms.--*

The borrower and the proposed entity member should contact their local FSA office and submit or participate in the completion of the documents to initiate the transfer and assumption process. The completed documents may include:

- complete application by the proposed new entity for the type of loan and amount of debt to be assumed according to 3-FLP, Part 3
- narrative by the authorized agency official describing the proposal
- FSA-2025

247 Types of Transfers and Assumptions (Continued)**B Adding a New Member to a Borrower Entity (Continued)**

- FSA-2489 or FSA-2026, or both
- new FSA-2026's, if needed
- FSA-2476, if applicable
- security instruments, as appropriate.

The transaction will be completed under subparagraph 248 C.

C Withdrawing a Member and the Remaining Members Are Not Jointly Liable

If a personally liable party withdraws from an entity and all remaining entity members are not jointly liable for the debt, FSA will process the transfer and assumption according to this part. Accordingly, all transferees will become personally liable for the debt and assume the full responsibilities and obligations of the debt transferred when the transfer and assumption is complete. If all remaining entity members are jointly liable, the withdrawal is processed according to Part 8.

The borrower and the proposed transferee should contact their local FSA office and submit or participate in completion of the documents to initiate the transfer and assumption process.

The completed documents may include:

- FBP, for the new entity demonstrating the repayment ability and management capacity of the remaining borrower entity
- updated farm assessment
- documents identifying the reason for the withdrawal such as a death certificate, a divorce decree, or a change in the composition of a corporation or partnership
- documentation of the transfer of the property such as a “deed” or “bill of sale” to the remaining members of the borrower entity
- narrative by the authorized agency official describing and recommending the proposal
- FSA-2025
- FSA-2489, FSA-2026, or both
- FSA-2080, if applicable
- FSA-2476, if applicable
- new security instruments, as appropriate.

247 Types of Transfers and Assumptions (Continued)**D Adding New Entity**

When an existing individual borrower forms an entity, the borrower should contact their local FSA office and submit or participate in the completion of the documents to initiate the transfer and assumption process. The completed documents may include:

- FSA-2001
- narrative by the authorized agency official describing the proposal
- *--FBP demonstrating the repayment ability--*
- new security instruments, as appropriate
- FSA-2489, FSA-2026, or both
- FSA-2476, if applicable.

The transaction will be completed under subparagraph 248 C.

E NP Applicant

FSA may allow NP assistance only when it is in FSA's best interest.

FSA allows NP assistance only to accommodate enhanced collection potential for outstanding loans.

The documents FSA requires for a NP transfer and assumption are the same as for a program eligible applicant, except FSA does not need to determine the borrower's eligibility.

Part 11 Borrowers Entering the Armed Forces**281 General****A Act Impact**

The Servicemembers Civil Relief Act of 2003 and the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 both affect FSA loan servicing. The Servicemembers Civil Relief Act of 2003 authorization affects FLP borrowers on active duty at all times whereas the requirements of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 are only implemented during a time of a war or national emergency as declared by the President or Congress. The FLP National Office will *--notify SED's when we are no longer under a national emergency conflict or at war.--*

B Active Duty

National Guard members must be on duty at least 30 calendar days to be considered on active duty for protections under both the Servicemembers Civil Relief Act and Ronald W. Reagan National Defense Authorization Act.

Reservists are covered by both the Servicemembers Civil Relief Act and Ronald W. Reagan National Defense Authorization Act from the date orders are received to report for active duty.

282 Servicemembers Civil Relief Act of 2003**A Interest Rate**

Subject to paragraph 283, FSA may not charge interest exceeding 6 percent on existing FLP debt if the borrower enters full-time active military duty.

Upon learning that a borrower enters active duty, the authorized agency official shall send Exhibit 52 to the borrower stating that the interest rate on their existing FSA loans will not exceed 6 percent while the borrower is on active military duty. The borrower shall submit written notice and a copy of the military orders calling the service member to military service and any orders further extending military service. The interest rate change will be effective with the date the military service started (as verified in the military orders submitted by the borrower).

If the borrower's interest rate is already lower than the 6 percent rate, the borrower will be notified that FSA will not increase the borrower's interest rate.

In times of war or national emergency, active duty members are eligible to have their FSA interest and payments deferred on existing loans. Exhibit 52 may be used as is or a similar notification letter may be used to address the borrower's specific circumstances. See paragraph 283 for additional details.

--Adjustments to the interest rate based on military service must be processed by the RD Business Center, FaSB only; therefore, the authorized agency official should send a memorandum to the RD Business Center, FaSB that confirms the military service of the-- borrower and the effective date of that service.

In addition, the authorized agency official shall process applicable changes to MIDAS Business Partner to change the borrower's address to the address at which FSA may contact the borrower while on active military duty or the address of a designated power of attorney.

B Penalty for Violations

Violations of the Servicemembers Civil Relief Act of 2003 are misdemeanors. Knowingly violating the provisions of the Servicemembers Civil Relief Act of 2003 is punishable by fines, imprisonment for not more than 1 year, or both.

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-2722's with code “07” in item 14A to the RD Business Center, FaSB.--* See 1-FLP, subparagraph 5 B.

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 the RD Business Center, FaSB. This letter instructs the RD Business Center,--* FaSB 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 FLP payments on existing loans of borrowers on active duty will be suspended 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. For **existing** loans, all payments due, as well as the due dates of all payments due during and after such active duty will be suspended or 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, 2019, annual payment on January 1) and a FO (matures February 15, 2040, annual payment on January 1) enters active duty on October 1, 2016, and is discharged on April 1, 2017 (182 days).

- Interest will not accrue from October 1, 2016, to April 1, 2017.
- The payments on both loans will be due on September 30 each year (April 1, 2017 + 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 for **existing** loans, payments will be suspended and interest will not accrue during time of active duty
- *--the RD Business Center, FaSB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--*

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

B Reinstating Annual Payments and Interest Accrual

The payment suspension and interest nonaccrual status will end on the earlier of the date the:

- war or national emergency is over
- borrower is released from active duty.

When information is received that the war or national emergency is over, or the borrower has been released from active duty, the County Office shall:

- send the borrower Exhibit 53, informing them that suspension and nonaccrual status has ended, the payment deferral period has started, and the expected due date of the post-deferral payment
- *--send the RD Business Center, FaSB a courtesy copy by FAX--*
- attach a copy of Exhibit 53 to the impacted promissory notes.

Note: Pre-military service delinquent payments will also be deferred on Exhibit 53 for a period equal to the length of service. Any delinquency remaining at the end of the deferral period will be serviced under 5-FLP, Part 3.

C PLS and DSA

When a borrower applies for PLS, it will be treated like a normal servicing application under 5-FLP, Part 3 and will be entered into eDALR\$ accordingly without any changes to the servicing term available. If eDALR\$ generates a feasible plan, provide the offer to the borrower as normal.

For instances where a feasible plan cannot be found or the borrower requests DSA, State Offices shall contact LSPMD for assistance.

D Acceleration or Foreclosure

FSA will not accelerate or foreclose on the property of a borrower in the armed forces during the borrower's tenure of service and for the term of their deferral, thereafter.

Notes: If the account has been referred to DOJ, notify DOJ that the borrower is entitled to relief under the Servicemembers Civil Relief Act of 2003 and the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (subparagraph 281 A).

Notify DOJ once information is received that the war or national emergency is over, or if the borrower has been released from active duty.

284-290 (Reserved)

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
AI	account information	65
APCD	type of applicant code	Ex. 25.5
CB	Collections Branch	66, 67
CFS	Central Filing System	102
CL	conservation loan	Text, Ex. 2
CNC	currently not collectible	Ex. 25.5
CONACT	Consolidated Farm and Rural Development Act	1, Ex. 2
CSB	Community Servicing Branch	67
ECM	Enterprise Content Management	61
FaSB	Farm Service Branch	61, 62, 64, 67, 97, 146, 282, 283, Ex. 51-53
GL	guide letter	2
NP	nonprogram loan	16, 46, 62, 266, 248
PAD	Preauthorized Debit	66, 67
PF	Payoff Balance	65
PIN	personal ID number	63
PLS	primary loan servicing	61, 98, 146, 197, 283
PRB	Program Reports Branch	Ex. 25.5
RC	report code	Text, Ex. 25.5
SAA	Shared Appreciation Agreement	117, Ex. 2
ST	softwood timber loan	16, 196, 246
TDCLCR	Term Debt and Capital Lease Coverage Ratio	32
VRU	Voice Response System	63

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Delegations of Authority

SED's may redelegate their authority to approve:

- subordinations or releasing and refiling lien instruments instead of subordination to FLC, FLS, or DD
- surface leases for farm property no longer in use (such as old barns) or for nonfarm purposes (such as wind turbines, communication towers, or other similar installations) to FLC, FLS, or DD
- severance agreement to FLC, FLS, or DD
- transfer and assumption to FLC, FLS, or DD.

State Supplements

The following table lists required State supplements.

Subparagraph	Required State Supplement
3 C	Guidance on notary acknowledgement.
3 D	Guidance on signature requirements.
3 F	Using State-specific and State-created forms.
65 F	Loan security instruments releases.
98 C	Obtaining new FSA-2028's.
*--98 E	Continuing financing statements.
98 H	Obtaining assignments.
98 I--*	Real estate security instruments.
101 A	Payment of a borrower's real estate taxes.
102 B	Potential purchaser notification.
--117 B	Releasing and refiling lien instruments.--
118 A	Multi-year subordinations.
120 A	Real estate subordinations.
136 C	Severance agreements.
250 A	Closing documents for transfer and assumptions.
266 C	Guidance for deceased borrower processing.
282 D	Establishment of power of attorney.
291 D	Transfer of borrower's records and lien searches.

Note: SED's shall:

- issue State supplements according to 1-AS, paragraph 216
- obtain approval of State supplements according to 1-AS, paragraph 220.

IRS Forms, Corrections, and Reports

A IRS Forms

County Offices receive reports for the year ending December 31 of FLP borrowers reported on IRS 1099-A, IRS 1099-C, IRS 1099-G, and copies of IRS 1099-INT and IRS 1099-MISC with the form mailed to the borrower, as applicable.

***--Note:** The RD Business Center, PRB reports this information to IRS and the borrower.--*

The following forms are mailed out by **COB January 31** of each year.

IRS Form	Explanation
1098	<p>IRS 1098:</p> <ul style="list-style-type: none"> • is attached to FSA-2065 for the annual yearend reporting • applies only to loans secured by real estate only or secured by real estate and chattel.
1099-A	<p>IRS 1099-A is sent to IRS and the affected FLP borrowers:</p> <ul style="list-style-type: none"> • whose security property was acquired as a full or partial satisfaction of their debt during the calendar year • reported on FSA-2585 during the calendar year. <p>Note: Use FSA-2585 as a substitute for IRS 1099-A when State and County Offices become aware of an abandonment and the acquisition will not be processed within 6 months. The borrower *--receives 1 copy and the RD Business Center, PRB receives the other copy through e-mail at RD-MOSTL-NFAOC-PRB@stl.usda.gov no later than the first workday in January. Contact information is available in 1-FLP, subparagraph 5 E. The information on the RD Business Center, PRB copy is data converted and merged with--* the IRS 1099-A acquisition data reported to IRS. It is critical that all spaces on FSA-2585 be completed.</p> <p>County Offices receive RC 960 that identifies each borrower, the unpaid principal, and market value of the acquired or abandoned property reported to IRS and the borrower.</p>

IRS Forms, Corrections, and Reports (Continued)

A IRS Forms (Continued)

IRS Form	Explanation
1099-C	<p>IRS 1099-C is provided to each borrower with a direct loan that had debt discharged through a writeoff, shared appreciation write-down, * * * or writeoff of a lease account during the calendar year. Writeoffs processed with a class of writeoff code “5”, which are CNC (borrower is not released from liability), and equity receivable writeoffs are not reported to IRS. The total amount of debt canceled with an effective date in the calendar year will be reported on IRS 1099-C. The amount includes the following:</p> <ul style="list-style-type: none"> • deferred interest • deferred noncapitalized interest • interest discharged from the note and advance • noncapitalized interest • principal discharged from the note and advance. <p>County Offices receive RC 970 that identifies each borrower and the amount of discharged debt reported to IRS and the borrower.</p>
1099-G	<p>IRS 1099-G will be provided to all recipients of grant funds during the calendar year. Grant disbursements with current year check dates will be reported.</p> <p>IRS 1099-G generated with invalid addresses will be mailed to the appropriate State Office to distribute immediately to the grant recipients. Servicing offices will receive RC 980 that identifies each grant recipient and the disbursed amount reported to IRS and the borrower.</p>
1099-INT	<p>IRS 1099-INT is provided to IRS for direct loan borrowers who received interest income (interest paid) on refunds made under the Internal Administrative Offset Program.</p> <p>*--Note: The RD Business Center, PRB mails a copy to the borrower and--* the County Office. IRS 1099-INT is sent to borrowers who must have APCD on the ADPS MI Status Screen of “1”, “Individual”, or “2”, “Partnership”, and interest paid of \$10.01 or more. These forms are prepared manually.</p>
1099-MISC	<p>IRS 1099-MISC is provided to IRS for individuals who received payments from FSA for a nonclass action, discrimination claim settlement. A copy is mailed to the individual and the County Office. These forms are prepared manually.</p>

***--Request for Continuation Statement Filing Fee (Bankruptcy Borrower)**

The borrower must pay fees for executing, filing, or recording financing statements, continuation statements or other security instruments, unless State law requires FSA to pay these fees. This letter will be used to inform the borrower of any fees required. Go to <https://inside.fsa.usda.gov/>. CLICK "Employee Forms" at the top of the page and CLICK "Find Current Forms Using Our Form Number Search". For "Form Number", ENTER "4-FLP Exhibit 28.4".

4-FLP, Exhibit 28.4
(Bankruptcy)

(Use Agency Letterhead format with local return address.)

NOTICE OF FSA'S RIGHT TO FILE A UCC CONTINUATION STATEMENT

Dear:

With regard to the loans you received from FSA, a financing statement was filed or recorded in the office of _____. Under the Uniform Commercial Code, FSA's financing statements are effective for a period of five years from the date of filing or recording. From a review of our records, we note that the five-year period is almost up in your case and it is necessary for FSA to file a continuation statement.

When you signed FSA's security agreement, you agreed to pay all filing or recording fees for instruments necessary to perfect, continue, service, or terminate FSA's security interest. Because you are currently under bankruptcy protection, FSA is providing you with the choice of either paying the filing fee now, or allowing FSA to pay the fee and charge the amount to your account, which will accrue interest at the rate set out in your oldest outstanding promissory note associated with that security.

PLEASE NOTE: This informational notice is not intended as an act to collect or recover any debt from you for which your personal liability was previously discharged.

The cost for filing a UCC continuation statement is \$ _____. If you choose to pay the fee, please send this amount to the above address in the form of a check or money order made payable to: _____ no later than _____. If FSA does not receive a check or money order from you by that date, FSA will pay the filing fee on your behalf and charge the amount to your account.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

[Authorized Agency Official's Name and Title]

cc: [Debtor's Attorney]

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

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***--Notification of Unauthorized Use of Proceeds (Bankruptcy Borrower)**

Upon noting an apparent unauthorized disposition of security, FSA will notify the borrower using the following. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 31.5”.

**4-FLP, Exhibit 31.5
(Bankruptcy)**

(Use Agency Letterhead format with local return address.)

NOTIFICATION OF UNAUTHORIZED USE OF PROCEEDS

Dear :

It is our understanding that on or about [date] you [sold, traded, exchanged] the following described property: _____ for \$ _____.

Such property is covered by a security agreement and financing statement which secures your indebtedness owed to the Farm Service Agency (FSA). As you are aware, the security instruments executed by you in favor of FSA are not affected by a discharge in bankruptcy and the security can still be foreclosed upon or liquidated to satisfy the secured debtor.

Since you did not account for the proceeds in accordance with your security instruments and signed agreement dated _____, we request that you submit to FSA the above-described amount or replace the property with property of equal or greater value within 30 days.

PLEASE NOTE: this informational notice is not intended as an act to collect or recover any debt from you for which your personal liability was previously discharged.

If you believe you possess information that will show this demand is in error, you should contact the County Office at [Telephone number, include area code] within 10 days to arrange an appointment to discuss this matter and present such information.

If you do not comply with this demand we will recommend referral of this claim to the United States Attorney for appropriate action, and make demand upon the purchasers of the property.

Sincerely,

[Authorized Agency Official’s Name and Title]

cc: [Debtor’s Attorney]

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

--*

Service Members Civil Relief

When information is received that a borrower has entered active duty, or is scheduled to enter active duty, the County Office shall send:

- the borrower information required in paragraph 282
- *--the RD Business Center, FaSB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--*

The County Office may use this exhibit without change, or draft a similar letter to address the borrower's specific circumstances.

Note: Exhibit 51 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 51”.

4-FLP, Exhibit 51

(Use Agency Letterhead format with local return address.)

SERVICE MEMBERS CIVIL RELIEF

Dear:

It has come to the attention of FSA that you may have entered active military duty, or may be entering active military duty in the near future.

If so, there are certain benefits you may be able to receive pursuant to the Servicemembers Civil Relief Act of 2003. These benefits may include a reduced interest rate if your current rate is above 6%; and if your account is delinquent, suspension/termination of collection through the Treasury Offset Program and cross-servicing program.

Please provide a copy of your military orders so FSA may provide all applicable benefits to you as quickly as possible.

If you are currently on active military duty and there is a pending FSA foreclosure sale scheduled for the property pledged as collateral for your FSA farm loans, please respond to this letter immediately via phone, or e-mail, or letter, so that the sale can be suspended.

If FSA does not receive a copy of your military orders to verify active duty status within 30 days of this letter, FSA will have no choice but to continue to service your account as if you are not on active military duty and FSA will not be able to provide any Servicemembers Civil Relief benefits until the required documentation is received.

If you have a military power of attorney already prepared and executed pursuant to 10 U.S.C. 100b, and would like FSA to work with that person, please provide a copy of that document. Please note that FSA is unable to prepare or help you prepare a power of attorney. We would encourage you to work with your attorney, military recruiter, or military chain of command for assistance with a power of attorney.

In addition, if you are on active duty during a time period that is declared by the President or Congress to be a war or national emergency, there are additional benefits you may be able to receive pursuant to the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005. You will receive separate notification concerning these benefits if they apply to you.

Please do not hesitate to contact this office if any further information is required.

Borrowers Entering Active Duty in Times of War or National Emergency

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

- the borrower the following, informing them that payments will be suspended, and interest will not accrue during time of active duty

•*--the RD Business Center, FaSB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--*

Note: This exhibit may only be revised by SED.

--Borrowers Entering Active Duty in Times of War or National Emergency (Continued)--

Note: Exhibit 52 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 52”.

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 suspended) on your existing 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 suspended or deferred for the length of time you are on active duty. New loans are not covered by the Act.

The beginning date of the suspension and non-accrual status is _____. The suspension 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.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW

Borrowers Leaving Active Duty

When information is received that the war or national emergency is over, or the borrower has been released from active duty, the County Office shall send:

- the borrower the following, informing them that suspension and nonaccrual status has ended
- *--the RD Business Center, FaSB a courtesy copy by FAX (1-FLP, subparagraph 5 B).--*

Note: This exhibit may only be revised by SED.

Borrowers Leaving Active Duty (Continued)

Note: Exhibit 53 is available in a fillable format. Go to <https://inside.fsa.usda.gov/>. CLICK “Employee Forms” at the top of the page and CLICK “Find Current Forms Using Our Form Number Search”. For “Form Number”, ENTER “4-FLP Exhibit 53”.

*--

4-FLP, Exhibit 53

(Use Agency Letterhead format with local return address.)

BORROWERS LEAVING 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 this Act, interest did not accrue and annual payments were suspended on your existing Farm Service Agency (FSA) Farm Loan Program (FLP) loans when the United States was at war or during a national emergency and you were on active duty. As we understand these conditions no longer exist, interest is now accruing on all your FLP loans. Your payments will be deferred for a period of time equal to the time of your active duty. This period of time has, therefore, been added to the term of your FLP loans impacted by the Act.

NOTE: Loans made after you went on active duty are not subject to the Act.

The beginning date of the suspension and non-accrual status was _____. The ending date of the suspension and non-accrual status was _____. The time period for your active duty was _____; therefore your post deployment deferral period ends _____.

Estimated daily interest accrual on loans with post deployment deferral are set forth below:

Loan Number	Principal Balance	Interest Rate	Daily Interest Accrual
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Your total daily interest accrual is \$ _____. If annual payments are not made during the post deployment deferral period, your total estimated interest accrual will be \$ _____. Voluntary payments during the deferral period will reduce the overall amount of interest accrual because payments are applied to accrued interest first, then to principal.

Please do not hesitate to contact this office if any further information is required.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov. USDA is an equal opportunity provider, employer, and lender.

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