

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

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<b>Regular Direct Loan Servicing</b> <b>4-FLP</b>	<b>Amendment 48</b>
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**Approved by:** Deputy Administrator, Farm Loan Programs



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**Amendment Transmittal**

**A Reasons for Amendment**

Subparagraph 118 A has been amended to clarify personal property subordinations to lines of credit.

Subparagraph 118 B has been amended to describe multi-year subordinations.

Subparagraphs 146 D and F have been amended to clarify requirements for release without compensation.

Subparagraph 146 E has been amended to remove the requirement for an updated security agreement.

Subparagraph 196 A has been amended to clarify the notes about transfer of real estate to a revocable trust for estate planning purposes.

Subparagraph 199 B has been amended to require LSPMD consent for a public auction of real estate unless certain conditions are met.

<b>Page Control Chart</b>		
<b>TC</b>	<b>Text</b>	<b>Exhibit</b>
	6-35, 6-36 6-71, 6-72 6-72.3 through 6-72.6 7-44.5, 7-44.6 7-53	1, pages 1-4



## 118 Conditions for Personal Property Subordinations

### A Personal Property Security

[7 CFR 765.205(d)] 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.

### \*--B Multi-Year Subordinations

Multi-year subordinations for LOC may only be approved according to OGC-approved State supplements.

Multi-year subordinations 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.

### \*--C Second Subordinations on Personal Property--\*

[7 CFR 765.205(d)(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).

### \*--D 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(e)] 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 was completed within the previous 18 months and meets the requirements of 1-FLP, subparagraph 141 G.
- 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.

**\*--FSA does **not** require an appraisal for personal property security when either of the following criteria are met:**

- the proposed subordination is for annual operating and family living expenses only and the projected income from farm production exceeds the subordination amount
- the existing FSA personal property appraisal is less than 1 year old and meets the requirements of 1-FLP, subparagraph 141 G.--\*

The authorized agency official must consider property additions to, and deletions from, the latest FSA appraisal and fully document the decision.

## **Section 5 Release of Real Estate and Personal Property Security Liens Without Monetary Compensation**

### **146 Release Without Monetary Compensation**

#### **A Approval**

\*--SED, or delegated FLC, FLS, or DD, may approve a request for release by authorizing--\* execution of FSA-2045, FSA-2061, FSA-2470, or other documents approved by OGC.

Before approval of a release without monetary compensation, borrower's ability to graduate to commercial credit must be considered and documented. The SED or delegated official's authorization must be attached to the applicable executed documents.

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, FLB 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 Compensation (Continued)****D Borrower Requested Personal Property Security Release**

**[7 CFR 765.305(c)] The Agency will release its lien on chattel security without compensation, after written request from the borrower provided all the following criteria are satisfied:**

**Note:** The borrower will submit FSA-2061 to request a release of security.

**(1) The borrower is current on all loan accounts with FSA and has not received PLS, DBSA, or DSA on any loan within the last 36 months;**

Borrowers:

- who currently have an installment that is less than 90 days past due are not considered current and do not meet this requirement
- requesting PLS, DSA, or DBSA at the same time they are requesting a release under this section do not meet this requirement
- that have executed a Conservation Contract without a PLS action may meet this requirement, as Conservation Contracts are not considered PLS.

**(2) The borrower has paid in full direct term loan installments that include principal reduction in each of the last 3 calendar years;**

**Notes:** The borrower must demonstrate timely payment according to loan schedules of \*--each direct loan installments over the most recent 36-month period. When--\* evaluating payment history, payments made no later than 90 days of the scheduled due date are considered timely. Borrowers must still be current at the time of request, see D(1).

To meet this requirement, installments must have originally included scheduled principal reduction. Scheduled payments consisting of interest only, regardless of any extra payments made, do not meet this requirement.

\*--A borrower who recently received a direct loan does not meet this requirement until they demonstrate timely payment of their installments (with principal reduction) over the most recent 36-month period for that new loan, regardless of their repayment history on prior FSA loans.--\*

**(3) After the release, the security margin on each Agency direct loan will be 125 percent (or more, if it is not practicable to separate the property, if necessary to ensure the loan is fully secured for the life of the loan, or if the borrower requests only a portion of Agency security to be released). 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;**

**146 Release Without Monetary Compensation (Continued)****D Borrower Requested Personal Property Security Release (Continued)**

The authorized agency official with SED delegated authority to prepare personal property appraisals under 1 FLP, Exhibit 7, will adequately document the analysis and determination to release security as provided in this paragraph. In some cases, more than a 125 percent security margin may be required. For example, borrowers with a balloon installment, the authority agency official must ensure adequate security is available when the balloon installment comes due. The authorized agency official will not release to 125 percent if the balloon installment is under secured. Non-PMI security will be considered for release prior to considering the release of security with perfected PMI.

**Note:** The value of personal property security to be released does not need to be appraised or valued unless it is necessary to support the value of retained security; however, the value of security to be retained must be obtained and analyzed as instructed in D(3).

Livestock can only be released in whole by species. Individual animal units within a species cannot be released.

**Example:** A release of a borrower's beef cattle herd can be authorized, but the agency will retain its lien on the borrower's swine herd to maintain the 125 percent security margin.

A borrower may request to replace primary personal property security with real estate security to facilitate the release of personal property security under this section. The request must meet all applicable requirements. The real estate offered as primary security must meet the requirements of subparagraph 196 F(2) of this handbook regarding appraisals, title clearance and security.

**146 Release Without Monetary Compensation (Continued)****D Borrower Requested Personal Property Security Release (Continued)**

\*--In lieu of a subordination, individual units of equipment may be released using UCC-3.--\*

\* \* \*

\*--**Example 1:** FSA has a lien on three tractors, which include two John Deere tractors that were funded by FSA (PMSI) and a Kubota tractor that represents non-PMSI security. The borrower has asked to use the Kubota tractor as a security for a new loan and has requested that it be released. A release of lien on an individual tractor is authorized provided that a 125 percent security margin is maintained. The Kubota tractor is the first tractor considered for release as it represents non-PMSI security.

A borrower may request the agency file a UCC-3 to document release of specific items of equipment. In this instance, the borrower must pay FSA the cost for recording UCC-3.--\*

**(4) Any asset requested for release must serve only as security for term loan(s) that have been outstanding for at least the prior 36 months and cannot serve as adequate security for another existing Agency direct loan;**

\*--Consideration should be given to whether the security to be released is adequate security for a direct loan at the time of release. Any security, whether primary or additional security at the time of loan making, may be considered for release subject to the requirements of this section. In some cases, it may not be feasible to distinguish the primary security from the additional. For example, with loans that were restructured multiple times, and each time additional security was taken, it may be difficult to determine what is primary security. In--\* those cases, an Administrator Exception can be submitted for review according to paragraph 4.

146 **Release Without Monetary Compensation (Continued)****(5) Except for CL, the borrower is unable to fully graduate as specified in § 765.101 (Part 2).**

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. A satisfactory environmental review must be completed. The environmental review will typically meet exception L-CatEx 1K, unless extraordinary circumstances exist, which require a higher level of environmental review (see 1-EQ).

To meet the 36-month requirement for not having received PLS, DBSA, or DSA, the borrower's request can only be made at least 36 months 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. In addition, the authorized agency official will assure that requirements in Part 2 are completed. State Office officials will review the request and if they concur, submit the request to the SED for approval.

**E Processing Release Requests**

Incomplete applications for release without monetary compensation will be processed according to paragraph 8 of this handbook.

The authorized agency official will inform the borrower in writing of the approval and include a copy of the FSA-2061 executed by the authorized agency official.

Security released without monetary compensation will be documented on the FSA-2045 in accordance with the form instructions. A new security agreement, FSA-2028, must be obtained in accordance with subparagraph 98 C, detailing the specific FSA security. \* \* \*

FSA's blanket UCC-1 will not be amended to reflect the release of personal property security unless there is a specific category of security that is being released. For example, if all \*--livestock security is released, the authorized agency official may file a UCC-3 to reflect the--\* release, if determined necessary. SED will issue a State Supplement on amending financing statements after consulting with the Regional OGC, as appropriate, to satisfy State legal requirements.

**Notes:** If through a subsequent loan making action, an item of security that was released becomes FSA security again, that item(s) will be lined through on the FSA-2045, initialed and dated by an authorized loan official.

\* \* \*

## 146 Release Without Monetary Compensation (Continued)

**F Borrower Requested Real Estate Security Release**

**[765.351(f)] Real estate security may be released by FSA without compensation upon written request from the borrower 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 all the following criteria are satisfied:**

**(1) The borrower is current on all loan accounts with FSA and has not received DBSA, DSA, or PLS within the last 36 months;**

Borrowers:

- who currently have an installment that is less than 90 days past due are not considered current and do not meet this requirement.
- requesting PLS, DSA, or DBSA at the same time they are requesting a release under this section do not meet this requirement
- that have executed a Conservation Contract without a PLS action may meet this requirement, as Conservation Contracts are not considered PLS.

**(1) The borrower has paid in full scheduled direct term loan installments that include--\* principal reduction in each of the last 3 calendar years;**

**\*--Notes:** The borrower must demonstrate timely payment according to loan schedules of each--\* direct loan installments over the most recent 36-month period. When evaluating payment history, payments made no later than 90 days of the scheduled due date are considered timely. Borrowers must still be current at the time of request, see F(1).

To meet this requirement, installments must have originally included scheduled principal reduction. Scheduled payments consisting of interest only, regardless of any extra payments made, do not qualify for release without monetary compensation.

\*--A borrower who recently received a direct loan does not meet this requirement until they demonstrate timely payment of their installments (with principal reduction) over the most recent 36 month period for that new loan, regardless of their repayment history on prior FSA loans.--\*

**(3) The property released will not interfere with access to or operation of the remaining farm;**

**(4) Essential buildings and facilities will not be released if they reduce the utility or marketability of the remaining property;**

**(5) Any issues arising due to legal descriptions, surveys, environmental concerns, utilities are the borrower's responsibility and no costs or fees will be paid by FSA;**

### 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.**

**\*--Note:** This section also applies to:

- subordinations and non-disturbance agreements made for non-lending purposes

**Note:** A lien waiver for Farm Programs is considered a subordination for non-lending purposes.

- conservation easements
- the sale of water and water rights
- transfer of security to a revocable trust (without assumption of debt) for estate planning purposes when both of the following apply:
  - the borrower and any spouse are the sole settlers or grantors of the revocable trust
  - the borrower and any spouse are the sole beneficiaries during the borrower's life.--\*

The borrower must:

- complete and sign FSA-2061 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
- complete an operational review according to 4-FLP, Part 2, reflecting the proposed transaction. If the review reflects that the operation will be financially distressed, the account will be serviced according to 5-FLP, Part 3, if needed, to determine if conditions for approval under paragraph B can be met.
- sell the property for not less than the appraised value unless FSA is being paid in full.



**199 Approving or Denying Partial Releases or Exchanges (Continued)****B Real Estate Auctions**

\*--Borrower requests to sell real estate at public auction must be pre-approved by LSPMD unless the:

- loans secured by the property are to be paid in full
- auction floor bid is either:
  - the appraised market value, or--\*
  - within 10 percent of the appraised market value and approved by SED.

\*--FLC or FLS should send a request for LSPMD concurrence to [adminexception@usda.gov](mailto:adminexception@usda.gov).

The request for LSPMD concurrence for a sale of real estate by public auction will address all of the following:--\*

- auctioneer's experience with selling real estate
- auctioneer's plan for advertising the 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
- appraised values of the property as it is being advertised and auctioned.

**Note:** This can be demonstrated with an appraisal that addresses separate tract values as an addendum.

**C Appeal Rights**

If a request under this section cannot be approved, the borrower will be notified of all appeal rights according to 1-APP. See 1-FLP subparagraphs 42 A through 42 F for guidance on preparing appeal letters specific to FLP.

**200-210 (Reserved)****Section 4 (Withdrawn--Amend. 28)****211, 212 (Withdrawn--Amend. 28)****213-230 (Reserved)**



## Reports, Forms, Abbreviations, and Redelegations of Authority

### Reports

Title	Reporting Period	Submission Date	Negative Reports	Reference
Payment Corrections From Previous Calendar Years	Annually	By February 1 each year	Required	61

### Forms

This table lists all forms referenced in this handbook.

Form Number	Title	Display Reference	Paragraph Reference
AD-1026	Highly Erodible Land Conservation and Wetland Conservation Certification		116
CCC-679	Lien Waiver		118
FSA-850	Environment Screening Worksheet		99, 199
FSA-2002	Three-Year Financial History		Ex. 20
FSA-2003	Three-Year Production History		Ex. 20
FSA-2025	Notification of Approval Terms and Conditions and Borrower Responsibilities		247-249
FSA-2026	Promissory Note		3, 247, Ex. 2, 20
FSA-2028	Security Agreement		Text, Ex. 2, 4
FSA-2029	Mortgage/Deed of Trust		3
FSA-2037	Farm Business Plan – Balance Sheet		116, Ex. 20
FSA-2038	Farm Business Plan – Income and Expenses		116, Ex. 20
FSA-2040	Agreement for the Use of Proceeds and Security		20, 162, 181, Ex. 29
FSA-2044	Assignment of Income		281
FSA-2045	Record of the Disposition of FSA Security/Release of Proceeds		146, 162, 166, 181
FSA-2061	Application for Partial Release or Consent	25.6	Text
FSA-2062	Application for Subordination to a Commercial Lender		116
FSA-2065	Annual Statement of Loan Account		64, Ex. 25.5
FSA-2071	Transmittal of Document		65
FSA-2072	Cancellation of U.S. Treasury Check and/or Obligation		61
FSA-2080	Release From Personal Liability		231, 247, 251
FSA-2091	Incomplete Application Letter		8
FSA-2092	Notice of Application Withdrawal		8
FSA-2132	Real Estate Evaluation		198
FSA-2409	Request for Continuation Statement Filing Fee		99
FSA-2410	Notice of FSA's Right to File a UCC Continuation Statement		99

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

Form Number	Title	Display Reference	Paragraph Reference
FSA-2420	Intent to ACL for Failure to Provide Information or to Graduate		19.5
FSA-2421	Intent to Convert Program Loans to Non-Program		19.5
FSA-2422	Notice of Non-Program Rates and Terms		19.5
FSA-2425	Request to Cancel Undisbursed Loan Funds		61
FSA-2429	Request for Change in Application		61
FSA-2433	Satisfaction of Lien		65, 147
FSA-2445	Control Log PLAS/GLAS Account Corrections		97
FSA-2446	PLAS/GLAS Account Correction		97
FSA-2450	Temporary Amendment of Consent to Payment of Proceeds From Sale of Farm Proceeds		162
FSA-2455	Subordination by the Government		120
FSA-2465	Assignment, Acceptance, and Release (Wool and Mohair)		166
FSA-2470	Partial Release		166, 212, 146, 147, 199
FSA-2476	Transfer of Real Estate Security		247
FSA-2489	Assumption Agreement		247
FSA-2490	Deceased Borrower Report		266
FSA-2491	Denial of NP Loan Assistance		248
FSA-2495	Application to Move Security Property		291
FSA-2543	Shared Appreciation Agreement		3, 97, 267
FSA-2551	Request for Non-monetary Default Determination		100, 181
FSA-2585	Acquisition or Abandonment of Secured Property		Ex. 25.5
FSA-2722	Update to TOP and Cross-Servicing Information		282
IRS 1098	Mortgage Interest Statement		61, Ex. 25.5
IRS 1099-A	Acquisition or Abandonment of Secured Property		Ex. 25.5
IRS 1099-C	Cancellation of Debt		Ex. 25.5
IRS 1099-G	Certain Government Payments		Ex. 25.5
IRS 1099-INT	Interest Income		Ex. 25.5
IRS 1099-MISC	Miscellaneous Income		Ex. 25.5

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

Form Number	Title	Display Reference	Paragraph Reference
IRS W-9	Request for Taxpayer Identification Number and Certification		68
UCC-1	National Financing Statement		247, 291
UCC-3	National Amendment Form		146

**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
DBSA	Distressed Borrower Set-Aside	146, 283
DSA	Disaster Set-Aside	146, 283
ECM	Enterprise Content Management	61
FLB	Farm Loan Branch	Text, Ex. 51-53
LOC	Line of Credit	118
NP	nonprogram loan	Text
PAD	Pre-Authorized Debit	66, 67
PF	Payoff Balance	65
PIN	personal ID number	63
PLS	primary loan servicing	61, 98, 146, 197, 283
PML	Pay My Loan	61
PRB	Program Reports Branch	Ex. 25.5
RC	report code	Text, Ex. 25.5
RDBCSO	Rural Development Business Center Servicing Office	67, Ex. 25.3
SAA	Shared Appreciation Agreement	117, Ex. 2
SAM	System for Award Management	7
SNDA	subordination, non-disturbance, and attornment	99, 199, Ex. 25.6
ST	softwood timber loan	16, 196, 246
SW	soil and water	19
TDCLCR	Term Debt and Capital Lease Coverage Ratio	21, 32
VRU	Voice Response System	63

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

SED's may redelegate their authority to approve:

- \*--subordinations, release without monetary compensation, 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.