

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Regular Direct Loan Servicing
4-FLP**

Amendment 5

Approved by: Deputy Administrator, Farm Loan Programs

Chris P. Beyershelm

Amendment Transmittal

A Reasons for Amendment

Subparagraph 2 C has been amended to provide additional clarification for issuing State supplements.

Subparagraph 3 G has been added to provide sources for forms not provided by FSA.

Subparagraph 5 C has been amended to include CL's.

Subparagraphs 46 A, 46 B, 46 D, and 47 B have been amended to:

- exclude CL's from graduation requirements
- exempt CL borrowers from being sent Exhibit 21 or 23.

Subparagraph 61 D has been amended to allow refunds of duplicate program benefits or assistance to be applied to CL's.

Subparagraph 62 A has been amended to provide that administrative costs and protective advances will be added onto CL's instead of creating new cost items.

Subparagraphs 97 B, 282 K, 283 A, and 283 B and Exhibits 52 and 53 have been amended to update applicable FAX numbers for FLOO.

Subparagraphs 99 D, 117 A, 126 B, 136 A, and 196 B have been amended to allow for the exception of CL's from graduation requirements.

Subparagraphs 102 B and 183 A have been amended to reference authorized agency official.

Subparagraph 136 B has been amended to include irrigation equipment as a severance agreement item.

Subparagraph 163 B has been amended to clarify a reference to definitions located in Exhibit 2.

Amendment Transmittal (Continued)

A Reasons for Amendment (Continued)

Subparagraph 181 B has been amended to clarify which party is in liquidation.

Subparagraphs 250 A and 290 D have been amended to update 3-FLP references.

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C State Supplements

*--See Exhibit 4 for State supplements required by this handbook. SED's are authorized to issue State supplements to this handbook in addition to State supplements listed in Exhibit 4.

Note: Additional State supplements may:

- **not** be issued to simply state verbatim, policies already established in the national handbook
- be issued:
 - when the national handbook does not provide complete guidance
 - to provide additional guidance for employees with limited experience
 - when State law requirements are not specifically addressed in the national handbook.--*

SED's shall:

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

3 FLP Forms

A Form References

Except as provided in this paragraph, this handbook refers to forms according to the new forms numbering system that becomes effective December 31, 2007. Forms executed before December 31, 2007, may have a number different from that referenced. See 1-FLP, Exhibit 5 for a comparison of form numbers before and after December 31, 2007.

Note: See Exhibit 1 for titles of forms referenced in this handbook.

With the exception of FSA-2510, FSA-2512, and FSA-2514, form numbers are not referenced in CFR (**bold**) text. CFR refers to forms by either:

- the common name of the form

Example: CFR may state, “a promissory note”, instead of stating, “FSA-2026”.

- purpose or the information collected.

Example: CFR may state, “a shared appreciation agreement”, instead of stating, “FSA-2543”.

This handbook may refer to the following forms by title and/or form number.

Form Number	Form Title
FSA-2026	Promissory Note
FSA-2029	Mortgage/Deed of Trust
FSA-2543	Shared Appreciation Agreement

3 FLP Forms (Continued)

B FSA-2029

All references to FSA-2029 within this handbook are intended as a reference to the applicable State-specific Mortgage or Deed of Trust. State-specific Mortgages or Deeds of Trust are available on the FFAS Employee Forms/Publications Online Website at <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html> and are numbered FSA-2029 “ST”.

Notes: “ST” represents the appropriate State acronym.

SED is not required to issue a State supplement for the State-specific version of FSA-2029.

C Notary Acknowledgement

Forms do not include preprinted text for the Notary Acknowledgement because numerous States have State-specific laws establishing required text. Therefore, a fillable text area is provided under the “Acknowledgement” heading. SED’s shall issue State supplements providing the appropriate Notary Acknowledgement text to be inserted.

D Applicant and Borrower Signatures

Forms completed by applicants or borrowers include a signature box to accommodate multiple signatures. Separate signature lines are not provided because the number of signatures required for an entity applicant or borrower cannot be determined in advance. Instructions for completing forms will provide guidance to applicants or borrowers on signature requirements.

Forms prepared by FSA for the applicant or borrower’s signature include a fillable area instead of preprinted signature lines. County Offices shall insert a signature line and the name of each applicant, borrower, entity member, or other individual required to sign the form.

SED’s shall issue a State supplement addressing State-specific signature requirements.

3 FLP Forms (Continued)

E State Office Modified National Forms

State and County Offices shall use national forms unless their use is prohibited by State law. If modification to a national form is required to comply with State law, the State Office shall submit a copy of the national form showing the necessary modifications, through the State Directives Management System.

Note: State-specific forms based on national forms will be made available on the FFAS Employee Forms/Publications Online Website at <http://intra3.fsa.usda.gov/dam/ffasforms/forms.html> with the same form number as the national form, followed by the State acronym.

F State-Created Forms

State Offices may create forms, as necessary, when a national form is not available. State-created forms shall be assigned a 5-digit number establishing linkage to the appropriate FLP handbook, followed by the State acronym, according to the following.

IF the form pertains to...	THEN the form number shall be...
more than one FLP handbook	FSA-2000-1 ST, FSA-2000-2 ST, FSA-2000-3 ST, etc.
1-FLP	FSA-2100-1 ST, FSA-2100-2 ST, FSA-2100-3 ST, etc.
2-FLP	FSA-2200-1 ST, FSA-2200-2 ST, FSA-2200-3 ST, etc.
3-FLP	FSA-2300-1 ST, FSA-2300-2 ST, FSA-2300-3 ST, etc.
4-FLP	FSA-2400-1 ST, FSA-2400-2 ST, FSA-2400-3 ST, etc.
5-FLP	FSA-2500-1 ST, FSA-2500-2 ST, FSA-2500-3 ST, etc.
6-FLP	FSA-2600-1 ST, FSA-2600-2 ST, FSA-2600-3 ST, etc.

Notes: “ST” represents the appropriate State acronym.

Before using State forms imposing information collections on 10 or more persons per year, State Offices shall work with the National Office to obtain OMB approval.

SED shall issue State supplements, as applicable, to address the use of all State-specific and State-created forms.

Exception: State-specific FSA-2029’s do not require State supplement issuance.

*--G Other Sources of Forms

FSA does **not** provide forms that establish an agreement or contract between applicants/borrowers and third parties only, such as leases. Advise applicants/borrowers to obtain these forms from other sources, such as Extension Service, on-line services, attorney, etc.--*

5 Introduction to Direct Loan Servicing (Regular)

A Purpose

[7 CFR 765.1(a)] This part describes the policies for servicing FLP direct loans, except for borrowers who are delinquent, financially distressed, or otherwise in default on their loan.

B Servicing Actions

[7 CFR 765.1(b)] Servicing actions described in this part include:

- (1) Limited resource reviews;**
- (2) Graduation to commercial credit;**
- (3) Application of payments;**
- (4) Maintaining and disposing of security;**
- (5) Transfer of security and assumption of debt; and**
- (6) Servicing accounts of deceased borrowers.**

C Loans Covered

[7 CFR 765.1(c)] The Agency services FLP direct loans under the policies contained in this part. This part is not applicable to Non-program loans, except where noted.

This handbook discusses the regular servicing of the following types of FSA loans:

- | | |
|---|------------|
| • EE | • RHF |
| • EM | • RL |
| • FO (including beginning farmer downpayment) | • ST |
| • NP (where specifically addressed) | • SW |
| • OL (including youth) | •*--CL.--* |

6-15 (Reserved)

Part 2 (Reserved)

16-30 (Reserved)

Part 4 Borrower Graduation

46 Graduation Requirements

A General

The direct FLP is * * * a temporary source of credit. By statute, FSA periodically conducts graduation reviews to assess the borrower's ability to graduate to commercial credit. The borrower must provide FSA with all the information requested for the reviews. Borrowers whose financial condition has improved to a point they can refinance their debt with commercial credit will be asked to seek other financing and partially or fully payoff their *--FSA debt. A graduation of all program loans is considered a full graduation even though the borrower may still have NP's remaining.

The requirements of this part apply only to program borrowers, except CL-only borrowers, and borrowers with a combination of program loans and NP's.

B CL-Only Borrowers

[7 CFR 765.101(g)] CLs are not subject to graduation requirements under this part.

Borrowers who have other program loans outstanding in addition to CL will be subject to graduation requirements on the other program loans only.--*

C Graduation Criteria

[7 CFR 765.101(a)] In accordance with the promissory note and security instruments, the borrower must graduate to another source of credit if the Agency determines that:

- (1) The borrower has the ability to obtain credit from other sources; and**
- (2) Adequate credit is available from other sources at reasonable rates and terms.**

[7 CFR 765.101(b)] The Agency may require partial or full graduation.

- (1) In a partial graduation, all FLP loans of one type (i.e. all chattel loans or all real estate loans) must be paid in full by refinancing with other credit with or without an Agency guarantee.**
- (2) In a full graduation, all FLP loans are paid in full by refinancing with other credit with or without an Agency guarantee.**
- (3) A loan made for chattel and real estate purposes will be categorized according to how the majority of the loan's funds are expended.**

46 Graduation Requirements (Continued)**C Graduation Criteria (Continued)**

FSA will review provisions of individual promissory notes to ensure that graduation language is included. Some older promissory notes do not contain graduation clauses. These loans are not subject to the same graduation requirements.

D Reminding Borrowers to Graduate

Every October, FSA will send a letter similar to Exhibit 21 to all borrowers to remind them of their obligation to graduate, if their financial condition improves to the point that they qualify for commercial credit.

***--Note:** Borrowers who have only CL or NP loans will **not** be sent graduation reminder letters.--*

47 Graduation Review Process**A Obtaining Underwriting Criteria From Local Lenders**

Each October, the authorized agency official shall contact local lenders to obtain their underwriting criteria for making agricultural loans. Information gathered from these contacts will be summarized on Exhibit 22, with any additional comments in narrative form, and placed in the county operational files FLP 2-2 "Agriculture Lender Contacts" and FLP 4-2 "Graduation", according to 25-AS. At a minimum, the narrative for each lender will contain the following:

- lender's interest in refinancing FSA borrowers, including interest in receiving the graduation prospectus described in subparagraph D
- lender's rates, terms, fees, loan conditions, and policies for annual operating, term operating, and real estate loans.

47 Graduation Review Process (Continued)

B Obtaining Financial Data

[7 CFR 765.101(c)] The borrower must submit all information that the Agency requests in conjunction with the review of the borrower's financial condition.

The borrower will provide upon agency request, a current balance sheet, actual financial performance, and a projected farm budget at least every 2 years. Except for borrowers with *--only youth loans, only CL's or NP's, or whose accounts are flagged "BAP", "ACL", "FAP", "CAP", or otherwise as determined by OGC, the authorized agency official will send--* Exhibit 23 and the required forms to request current financial information from the borrower to evaluate the potential for refinancing to commercial credit. Exhibit 23 will be sent twice if the borrower does not supply the required information. The first time Exhibit 23 is sent, the borrower will be given 30 calendar days to supply the required information. The second Exhibit 23 will be sent on day 15, only if the required information has not been submitted and will give the borrower 15 calendar days to submit the required information. If the borrower has provided the financial information required to conduct a year-end analysis, or current financial data is available for other reasons, this same information may be used in the graduation review process. The borrower's financial information will be used to classify accounts according to 1-FLP, Part 8.

C Screening Borrowers

The authorized agency official will conduct annual electronic screening of all borrowers using the Graduation Review Report from DLS. All borrowers classified as a "1" or "2" (commercial or standard) are required to be reviewed on an annual basis in DLS. Borrowers with limited resource interest rates, and youth loan borrowers under 18 years of age, will be excluded from graduation regardless of the classification code. If the financial information provided indicates that the borrower cannot meet local underwriting criteria, the authorized agency official shall document why the borrower, despite being classified a "1" or "2," is unlikely to graduate. The authorized agency official will record this in the Graduation Review workflow in DLS and in the applicable FBP Credit Presentation.

If the borrower's financial information indicates that the borrower meets local underwriting criteria and graduation is possible, the borrower's prospectus will be forwarded according to subparagraph D.

47 **Graduation Review Process (Continued)****D Sending Prospectus**

[7 CFR 765.101(d)] The Agency may provide a borrower's prospectus to lenders in an attempt to identify sources of non-Agency credit and assess the lenders' interest in refinancing the borrower's loan. The Agency will notify the borrower when the borrower's prospectus is provided to one or more lenders.

If the borrower's financial information indicates they meet local underwriting criteria, the authorized agency official will:

- include the borrower's name, loan type, balance sheet, and projected cash flow on Exhibit 24
- send Exhibit 24 to commercial lenders.

Exhibit 24 asks lenders to indicate an interest in further review of borrowers listed. The lenders review will determine if they would be willing to refinance FSA.

When an authorized agency official includes a borrower's information on Exhibit 24 and sends it to a lender, a copy of Exhibit 24 will be sent to the borrower with a cover letter with language similar to:

“Enclosed, please find Exhibit 24. This exhibit has been sent to several lenders in the area so they could review your financial information and consider refinancing your FSA account.”

E Applying for Commercial Credit

[7 CFR 765.101(e) If a lender expresses an interest in refinancing the borrower's FLP loan, the borrower must:

- (1) Apply for a loan from the interested lender within 30 days of notice; or**
- (2) Seek guaranteed loan assistance under the market placement program in accordance with section 762.110(g) of this chapter (2-FLP, paragraph 72).**

An authorized agency official will assist the borrower with completion of an application for guaranteed loan, if a lender expresses an interest in providing assistance with a guarantee.

See 2-FLP for information on guaranteed loans.

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.

When FSA receives a payment, the authorized agency official must record and process the payment according to 3-FI. Any subsequent correction of applications will be processed using FSA-2429 according to 3-FI.

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

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;**
- (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, FSA-2425 will be used 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 FSC, FLOO at the following address:

USDA, FSA, FSC, FLOO, FC-533
PO BOX 200003
--ST LOUIS MO 63120-0003.--

The original FSA-2425 with the borrower's signature will be stapled to the original promissory note in the locking-type, 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 FLOO.--*

FSC, FLOO's record of the loan will indicate the loan amount was reduced after deobligation. Keeping the 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 FLP direct loans 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 FSC, FLOO 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.

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, NRBRA's, 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 coordinator's will send completed FSA-2446's to FLOO by:
 - FAX to:
 - *--314-679-6815 for States 01 through 32
 - 314-679-6816 for States 33 through 64--*
 - mail to:

USDA-FSA-FSC-FLOO
PO Box 200003
St. Louis, MO 63120

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 4-1, "Reports" according to 25-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 25-AS.

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 the running case record.

C Obtaining New FSA-2028's

FSA obtains new FSA-2028's when:

- a security interest is taken in crops
- FSA obtains additional security
- 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 new FSA-2028 based on State law.

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) Noncompliance 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 FSA when making eligibility determinations for future requests for assistance and may adversely impact such requests;

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

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

(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.

99 Borrower Responsibilities for Complying With Loan Instruments (Continued)

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.

(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;

(d) The borrower has leased the security according to § 765.252(a)(2) (subparagraph E); and

102 Notifying Potential Purchasers**A States With CFS**

[7 CFR 765.204(a)] The Agency participates and complies with central filing systems in States where CFS has been organized. In a State with a CFS, the Agency is not required to additionally notify potential purchasers that the Agency has a lien on the borrower's chattel security, unless specifically required by State law.

States with CFS maintain records reflecting liens placed against agricultural products according to the Food Security Act of 1985. It is the purchasers' responsibility to obtain information about lien filings using CFS.

B States Without CFS

[7 CFR 765.204(b)] In a State without CFS, the Agency follows the filing requirements specified for perfecting a lien on a borrower's chattel security under State law. The Agency will distribute the list of chattel and crop borrowers to sale barns, warehouses, and other businesses that buy or sell chattels or crops. In addition, the Agency may provide the list of borrowers to potential purchasers upon request.

The notification to potential purchasers listed by the borrower on FSA-2040 will be sent by certified mail, completed by using Exhibit 29, and include the following:

- FSA Office address (the name and address of any secured party)
- name and address of each debtor
- Social Security number of each debtor, or other approved unique identifier, and if a debtor does business other than as an individual, the tax ID number
- description of the farm products given as security, including:
 - reasonable description of the farm product or products produced by the borrower (such as type and amount of crops, livestock, or farm machinery)
 - crop year
 - county (or counties) in which the products are produced or located
 - any payment obligations imposed on the buyer by FSA (the secured party) as a condition for release of the security interest.

102 Notifying Potential Purchasers (Continued)

B States Without CFS (Continued)

To ensure that purchasers are aware of the Government's security interests, this notification will be updated annually by a new Exhibit 29 or Exhibit 30. If there are any material *--changes or at the discretion of the authorized agency official, a new Exhibit 29 and/or 30--* should be sent more often.

If requests are made for notification beyond the listed requirements, they can only be sent by Exhibit 29 to business firms in the trade area that buy chattel or crops or sell them for commission.

103 FSA Responsibilities Under Third Party Actions

A County Office Responsibility

The authorized agency official will immediately send the borrower notice to cure the nonmonetary default according to 5-FLP, Part 3 when FSA:

- learns about a third party action or other borrower's failure to comply with the loan agreement that could affect FSA's security interest, or
- is made a party to a court action that could affect FSA's security interest.

B SED's Responsibility

SED's will:

- consult with OGC about all lawsuits involving the property and any other third party actions when necessary
- advise the authorized agency official on the actions the County Office should take to protect FSA's security interest.

104-115 (Reserved)

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 if all of the following conditions are met:

- (1) The borrower is not in default or will not be in default on Agency FLP loans by the time the subordination closing is complete;**
- (2) The loan will be used for an authorized Agency loan purpose or is made in conjunction with a guaranteed loan;**
- (3) The credit is essential to the farming operation, and the borrower cannot obtain the credit without a subordination;**
- (4) 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;**
- (5) The Agency 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;**

--(6) The borrower is not able to graduate on any program except for CL;--

(7) 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 Agency loan purpose may be approved when it is needed for the entity member to finance a separate farming operation, provided the subordination does not cause the unpaid principal and interest on the Agency loans to exceed the value of loan security or otherwise adversely affect the security;

(8) The borrower must not be ineligible as a result of a conviction for controlled substances according to 7 CFR part 718 of this chapter (1-CM);

117 Conditions for Real Estate Subordinations (Continued)**A Real Estate Security (Continued)**

(9) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718 (1-CM):

(10) 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 subpart G of 7 CFR part 1940;

(11) There is no other subordination outstanding with another lender in connection with the same security;

(12) The subordination is limited to a specific amount, the loan made in conjunction with the subordination will be closed within a reasonable time and has a definite maturity date;

(13) In the case of real property purchase or exchange, the Agency will obtain a valid mortgage and the required lien position on the real 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);--*

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

(15) Subordination of SAA mortgages may only be approved when there is no increase in the debt which is prior to the SAA debt; and

(16) If a borrower has only a Non-program loan, the Agency does not permit subordination. The Agency may subordinate Non-program security when it is also security for a program loan with the same borrower in accordance with this section.

Section 3 Junior Liens

126 General Conditions for Junior Liens

A General Policy

[7 CFR 765.206(a)] The borrower will not give a lien on Agency security without the consent of the Agency. Failure to obtain Agency consent will be considered by the Agency when making eligibility determinations for future requests for assistance and may adversely impact such requests.

To request FSA approval of a junior lien, the borrower must submit to FSA:

- FSA-2001, with items A-1, C-1, C-5A, D-4A, D-4B, E-18A, and E-18B completed for chattels
- FSA-2060 for real estate cases (FSA will assist the borrower in completing FSA-2060)
- a copy of the farm operating plan submitted to the junior lienholder
- an FBP or other similar plan of operation that shows the junior lien and repayment schedule
- any other information necessary for FSA to make a decision.

126 General Conditions for Junior Liens (Continued)**B Conditions for Consent to a Junior Lien**

[7 CFR 765.206(b)] The Agency will consent to the terms of a junior lien if all of the following conditions are met:

[7 CFR 765.206(b)] (1) The borrower's ability to make scheduled loan payments is not jeopardized;

[7 CFR 765.206(b)] (2) The borrower provides the Agency a copy of the farm operating plan submitted to the junior lienholder, and the plan is consistent with the Agency operating plan;

[7 CFR 765.206(b)] (3) The total debt against the security does not exceed the security's market value;

FSA will not obtain appraisals to consider junior liens. Any appraisal required by FSA to make this decision must be supplied by the borrower or lender and will be reviewed by FSA to ensure that all 1-FLP requirements are met.

[7 CFR 765.206(b)] (4) The junior lienholder agrees in writing not to foreclose the security instrument unless written notice is provided to the Agency;

--[7 CFR 765.206(b)] (5) The borrower is unable to graduate on any program except for CL; and--

[7 CFR 765.206(b)] (6) The junior lien will not otherwise adversely impact the Agency's financial interests.

C Unapproved Junior Liens

FSA will consider an unapproved junior lien on security when determining future borrower eligibility for FSA loanmaking or servicing actions.

127-135 (Reserved)

Section 4 Severance Agreements

136 Conditions for Severance Agreements

A Severance Agreements Conditions

[7 CFR 765.207] For loans secured by real estate, a borrower may request Agency consent to a severance agreement or similar instrument so that future chattel acquired by the borrower will not become part of the real estate securing the Agency debt. The Agency will consent to severance agreements if all of the following conditions are met:

(a) The financing arrangements are in the financial interest of the Agency and the borrower;

(b) The transaction will not adversely affect the Agency's security position;

--(c) The borrower is unable to graduate on any program except for CL;--

(d) The transaction will not jeopardize the borrower's ability to pay all outstanding debts to the Agency and other creditors; and

(e) The property acquired is consistent with authorized loan purposes.

The borrower must submit all information required under subparagraph 126 A to request FSA consideration.

B Items That May Be Included in a Severance Agreement

Examples of items that the borrower may acquire subject to a chattel lien and, therefore, may be included in a severance agreement are:

- silos
- storage bins
- bulk milk tanks
- *--irrigation equipment--*
- other income producing facilities.

C Approving Severance Agreements

The authorized agency official will approve a severance request by executing FSA-2060 and the necessary severance agreements. OGC approval must be obtained on a severance agreement submitted on a form that has not previously been approved for use in the State. SED's may issue State supplements on approving severance agreements, as appropriate.

137-145 (Reserved)

163 Using Proceeds From Chattel Security

A General Requirements

[7 CFR 765.303(a)] (1) Proceeds from the sale of basic security and normal income security must be remitted to lienholders in order of lien priority.

(2) Proceeds remitted to the Agency may be used as follows:

(i) Applied to the Agency debt;

(ii) Pay customary costs appropriate to the transaction.

(3) With the concurrence of all lienholders, proceeds may be used to preserve the security because of a natural disaster or other severe catastrophe, when funds cannot be obtained by other means in time to prevent the borrower and the Agency from suffering a substantial loss.

(4) Security may be consumed as follows:

(i) Livestock may be used by the borrower's family for subsistence;

(ii) If crops serve as security and usually would be marketed, the Agency may allow such crops to be fed to the borrower's livestock, if this is preferable to marketing, provided the Agency obtains a lien or assignment on the livestock, and livestock products, at least equal to the lien on the crops.

163 Using Proceeds From Chattel Security (Continued)**B Releasing Normal Income Security for Essential Family Living and Farm Operating Expenses**

[7 CFR 765.303(b)] In addition to the uses specified in paragraph (a) of this section, the agreement for the use of proceeds will allow for release of proceeds from the sale of normal income security to be used to pay essential family living and farm operating expenses. Such releases will be terminated when an account is accelerated.

--See Exhibit 2 for the definition of essential family living and farm operating expenses.--
FSA may not consider all of the examples included in the definition as essential for every family and farming operation. The authorized agency official must consider all of the following:

- the individual borrower's operation
- what is typical for that type of operation in that area
- what is an efficient method of production considering the borrower's resources.

When the borrower and FSA cannot agree on security releases for essential family living and operating expenses, the borrower must request the release in writing. If rejected, the authorized agency official will notify the borrower, in writing, why the requested release was denied, including why the expenses requested for release are not basic, crucial, or indispensable to the family, the farming operation, or both. Appeal rights will be included with the notification. See 1-APP for appeal procedures.

C Basic Security

--[7 CFR 765.303] (c) In addition to the uses specified in paragraph (a) of this section:--

(1) Proceeds from the sale of basic security may not be used for any family living and farm operating expenses.

(2) Security may be exchanged for chattel property better suited to the borrower's needs if the Agency will acquire a lien on the new property at least equal in value to the lien held on the property exchanged.

(3) Proceeds may be used to purchase chattel property better suited to the borrower's needs if the Agency will acquire a lien on the purchased property. The value of the purchased property, together with any proceeds applied to the Agency debt, must at least equal the value of the Agency lien on the old security.

164, 165 (Reserved)

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.

The authorized agency official must document an unapproved disposition of chattel security *--on FSA-2040 and in the borrower's case file running record. A copy of the running record will be filed in the District Director Oversight Review file according to 25-AS, Exhibit 40.5. The DD will review this information as a part of the Quarterly Review and ensure that all unauthorized dispositions are addressed according to this Section.

Note: 25-AS will be revised at a future date to include reference to filing the running record of unapproved disposition of security.--*

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.

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 by certified mail 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.

182 Post-Approval of Chattel Security Disposition**A Post-Approval of Unapproved Dispositions**

When FSA discovers that a borrower has disposed of all or some of the security property not listed on the agreement or has used funds for some purpose not listed on the borrower's agreement, FSA may post-approve the disposition if all of the requirements of paragraph 163 are met.

The authorized agency official must document the decision to post-approve an unauthorized chattel property disposition on the agreement and in the borrower's case file.

B Denying Post-Approval Requests

The authorized agency official may not post-approve a disposition of chattel security if the use of proceeds does not comply with paragraph 163. Servicing will continue according to subparagraph 181 A.

C Determining the Disposed Security's Value

FSA will not release its lien if the security was sold for less than the market value, until the full value of the security is remitted to FSA.

FSA will determine the disposed security's value in each unapproved disposition case through either:

- the most recent appraisal
- a current value price listing for similar property
- an updated property value appraisal based on FSA-2028 information.

183 Requirements for Handling Borrower Noncompliance**A Future Eligibility Decisions**

[7 CFR 765.304(b)] Failure to cure the first unauthorized disposition in accordance with paragraph (a) of this section (subparagraph 181 A), or a second unauthorized disposition, whether or not cured, constitutes a non-monetary default, will be considered by the Agency when making eligibility determinations for future requests for assistance, may adversely impact such requests, and may result in civil or criminal action.

--The authorized agency official will process the nonmonetary default according to 5-FLP, Part 3. The default can be corrected by post-approval, but will be considered by FSA in future eligibility decisions. If FSA does not post-approve the transaction or the borrower does not make restitution, FSA will proceed according to 5-FLP, Part 11, Section 2.

184-195 (Reserved)

Section 3 Real Estate Security Partial Releases

196 Requirements

A General

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

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

B Conditions for Approval

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

(1) The transaction will enhance the objectives for which the Agency loan or loans were made;

(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.

(3) The amount received for the security being disposed of or the rights being granted is not less than the market value;

(4) Any proceeds in excess of the market value are remitted to lienholders in the order of lien priority;

(5) The transaction must not interfere with the borrower's farming operation;

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

--(8) The borrower cannot graduate to other credit on any program except for CL;--
and

(9) The borrower must not be ineligible due to disqualification resulting from Federal Crop Insurance violation according to 7 CFR part 718.

196 Requirements (Continued)**C Sale of Timber, Gravel, Oil, Gas, Coal, or Other Minerals**

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

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

(ii) For loans secured by real estate before December 23, 1985, the Agency has a security interest in mineral products, gravel, oil, gas, coal, or other resources and the sale by unit or lump sum payment will be considered a disposition of security.

(iii) For loans secured by real estate on or after December 23, 1985, the Agency has a security interest in mineral products, gravel, oil, gas, coal, or other resources if the value of such products was included in an appraisal. When the Agency has a security interest, the sale of such products 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)(10)] 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.

250 Closing the Transfer**A Basic Policy**

[7 CFR 765.405] The transferor and transferee are responsible for paying transfer costs such as real estate taxes, title examination, attorney's fees, surveys, and title insurance. When the transferor is unable to pay its portion of the transfer costs, the transferee, with Agency approval, may pay these costs provided:

- (a) Any cash equity due the transferor is applied first to payment of costs and the transferor does not receive any cash payment above these costs;**
- (b) The transferee's payoff of any junior liens does not exceed \$5,000;**
- (c) Fees are customary and reasonable;**
- (d) The transferee can verify that personal funds are available to pay transferor and transferee fees; and**
- (e) Any equity due the transferor is held in escrow by an Agency designated closing agent and is disbursed at closing.**

***--The authorized agency official will prepare closing documents according to 3-FLP, Part 16--* and State and local requirements. Closing documents will be filed according to State law and as described in the State supplement.**

B Final Processing

The authorized agency official will complete a "1M" transaction in DLS to record the transfer and assumption.

The signed documents in the transfer docket will be placed in the transferee's case file and the transferor's file shall be maintained according to 25-AS.

251 Determining Transferor Liability After Closing**A Full and Complete Transfer**

[7 CFR 765.406(b)(1)] The Agency may release the transferor from liability when all of the security is transferred and the total outstanding debt is assumed.

B Transfer and Assumption of a Portion of the Indebtedness

[7 CFR 765.406(a)] Agency approval of an assumption does not automatically release the transferor from liability.

[7 CFR 765.406(b)(2)] If an outstanding debt balance will remain and only part of the transferor's Agency security is transferred, the written request for release of liability will not be approved, unless the deficiency is otherwise resolved to the Agency's satisfaction.

[7 CFR 765.406(b)(3)] If an outstanding balance will remain and all of the transferor's security has been transferred, the transferor may pay the remaining balance or request debt settlement in accordance with subpart B of 7 CFR part 1956.

If all security has been transferred, the remaining debt will be considered for debt settlement instead of release of liability under this Section.

In partial debt and partial security transfer cases, the transferee may pay any sale price or security shortfalls to resolve deficiencies as approved by the authorized agency official by any of the following:

- cash contribution
- participation credit
- subsequent FSA loans.

If only a portion of the indebtedness is to be assumed by the transferee, the authorized agency official must recommend and SED must approve or deny settlement of the remaining indebtedness.

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

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

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

K Treasury Cross-Servicing

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

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

L Canceling the 6 Percent Interest Rate

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

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

A Suspension of Interest Accrual and Payments

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

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

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

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

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

**283 Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005
(Continued)****B Reinstating Annual Payments and Interest Accrual**

The payment deferral 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
- FSC, FLOO a courtesy copy by FAX to:
 - *-314-679-6815 for State coded 01 through 32
 - 314-679-6816 for State coded 33 through 64.--*

C 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 3 months, thereafter.

Note: 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).

284-290 (Reserved)

291 Procedures and Servicing Responsibility (Continued)**D Receiving Office Responsibilities**

New security instruments are necessary for borrower relocations and borrower crop and chattel relocations, unless other guidance is provided through a State supplement or from the Regional OGC.

--The receiving County Office must obtain a new UCC1 and FSA-2028 (3-FLP, Part 15)-- when a borrower moves:

- to a new farm and crops or fixtures on new real estate will serve as security
- to a new farm which is to serve as security
- FSA chattel security to a new County Office location.

The receiving County Office must obtain a new UCC1 and FSA-2028 as soon as possible, but no later than 30 calendar days after the borrower's move.

If the borrower does not execute the new instruments, the County Office shall refer the case to SED with recommendations for appropriate action. Normally, the receiving County Office will notify the borrower according to 5-FLP, subparagraph 66 A (3) and proceed to liquidation with the assistance of the transferring County Office. For interstate moves, the receiving County Office must execute and file a new UCC1 with the following text:

“The above collateral was brought into ____ from ____ County, State of ____, subject to a security interest of the Secured Party.”

The receiving County Office should see the applicable State supplement for instructions and guidance on lien searches.

292-300 (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
CFS	Central Filing System	102
CL	conservation loan	Text, Ex. 2
CONACT	Consolidated Farm and Rural Development Act	1, Ex. 2
GL	guide letter	2
NP	nonprogram loan	16, 46, 62, 266, 248
NRBRA	Net Recovery Buyout Recapture Agreement	97
PF	Payoff Balance	65
PIN	personal ID number	63
RC	report code	Text
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

Re delegations of Authority

SED's may redelegate their authority to approve subordinations to qualified State Office employees.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b))**Abandoned Security Property**

Abandoned security property is security property that a borrower is not occupying, or is not in possession of, or has relinquished control of, and has not made arrangements for its care or sale.

Acceleration

Acceleration is a demand by a lender for immediate repayment of the entire balance of a debt if the security instrument or promissory note is breached. When FSA accelerates an account, the entire loan balance is due in 30 calendar days.

Additional Security

Additional security is any property which provides security in excess of the amount of security value equal to the loan amount.

Agency

*--**Agency is FSA**, an agency of USDA, including its personnel and any successor Agency.--*

Agency Official

Agency official is any employee with the agency. This term is used when the action does not require inherent or delegated authority.

Approval Official

Approval official is the specific employee who has the authority to approve or deny the described action.

Assumption

Assumption is the act of agreeing to be legally responsible for another party's indebtedness.

Authorized Agency Official

Authorized agency official is an employee who has either inherent or delegated authority to complete the described action.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)**Basic Security**

Basic security is all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate that serves as security for a loan made or guaranteed by the Agency.

Borrower (or Debtor)

Borrower (or debtor) is an individual or entity that has an outstanding obligation to the Agency or to a lender under any direct or guaranteed FLP loan, without regard to whether the loan has been accelerated. The term “borrower” includes all parties liable for such obligation, including collection-only borrowers, except for debtors whose total loans and accounts have been voluntarily or involuntarily foreclosed, sold, or conveyed, or who have been discharged of all such obligations owed to the Agency or guaranteed lender.

Chattel

Chattel is any property that is not real estate.

Chattel Security

Chattel security is property that may consist of, but is not limited to: crops; livestock; aquaculture species; farm equipment; inventory; accounts; contract rights; general intangibles; and supplies that are covered by financing statements and security agreements, chattel mortgages, and other security instruments.

Civil Action

Civil action is a court proceeding to protect the Agency’s financial interests. A civil action does not include bankruptcy and similar proceedings to impound and distribute the bankrupt’s assets to creditors, or probate or similar proceedings to settle and distribute estates of incompetents or decedents, and pay claims of creditors.

Collateral

Collateral is property pledged as security for a loan to ensure repayment of an obligation.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Family Living Expenses

Family living expenses are the costs of providing for the needs of family members and those for whom the borrower has a financial obligation, such as alimony, child support, and care expenses of an elderly parent.

Family Members

Family members are the immediate members of the family residing in the same household with the borrower, or, in the case of an entity, with the operator.

Farm

Farm is a tract or tracts of land, improvements, and other appurtenances that are used or will be used in the production of crops, livestock, or aquaculture products for sale in sufficient quantities so that the property is recognized as a farm rather than a rural residence. The term “farm” also includes the term “ranch.” It may also include land and improvements and facilities used in a non-eligible enterprise or the residence which, although physically separate from the farm acreage, is ordinarily treated as part of the farm in the local community.

FLP’s

Farm Loan Programs are Agency programs to make, guarantee, and service loans to family farmers authorized under the Act or Agency regulations.

Foreclosed

Foreclosed is the completed act of selling security either under the power of sale in the security instrument or through judicial proceedings.

Graduation

*-**Graduation** means the payment in full of all direct FLP loans, except for CLs, made for -* operating, real estate, or both purposes by refinancing with other credit sources either with or without an Agency guarantee.

Guaranteed Loan

Guaranteed loan is a loan made and serviced by a lender for which the Agency has entered into a Lender’s Agreement and for which the Agency has issued a Loan Guarantee. This term also includes guaranteed lines of credit except where otherwise indicated.

Definitions of Terms Used in This Handbook (7 CFR 761.2(b)) (Continued)

Hazard Insurance

Hazard insurance is insurance covering fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workers compensation, or any similar insurance that is available and needed to protect the Agency security or that is required by law.

Initial Loan

Initial loan is the first loan of its type processed by FSA. A borrower having one OL and one FO has 2 initial loans, because they are different loan types.

Joint Operation

Joint operation is an operation run by individuals who have agreed to operate a farm or farms together as an entity, sharing equally or unequally land, labor, equipment, expenses, or income, or some combination of these items. The real and personal property is owned separately or jointly by the individuals.

Junior Lien

A **junior lien** is a lien that is subordinate to a prior lien on the same item of security.

Lien

Lien is a legally enforceable claim against real or chattel property of another obtained as security for the repayment of indebtedness or an encumbrance on property to enforce payment of an obligation.

Limited Resource Interest Rate

Limited resource interest rate is an interest rate normally below the Agency's regular interest rate, which is available to applicants unable to develop a feasible plan at regular rates and are requesting:

- (1) FO or OL loan assistance under part 764 of this title; or
- (2) Primary loan servicing on an FO, OL, or SW loan under part 766 of this title.

Borrowers Entering Active Duty

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

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

Note: This exhibit may only be revised by SED.

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

*--

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 payments will not be required (will be deferred) on your Farm Service Agency (FSA) Farm Loan Program (FLP) loans while the United States is at war or during a national emergency as declared by the President or Congress. Principal payments due during or after active duty will be deferred for the length of time you are on active duty.
The beginning date of the deferred and non-accrual status is _____. The deferral and non-accrual status will end on the earlier of when your active duty ends or the war or national emergency is concluded.
FSA is committed to providing service to assist our borrowers who are impacted by military deployment. Please continue to keep this office apprised of your current duty status so your account can be updated in a timely manner once you are relieved from active duty (with a copy of your release orders) or the national emergency has ended.
Please do not hesitate to contact this office if any further information is required.

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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
- FLOO a courtesy copy by FAX to:
 - *--314-679-6815 for State Offices coded 01 through 32
 - 314-679-6816 for State Offices coded 33 through 64.--*

Note: This exhibit may only be revised by SED.

Go to <http://165.221.16.90/dam/ffasforms/forms/html>, CLICK “Find Current Forms Using Our Form Number Search”, in Form Number block, type, “4-FLP Exhibit 53”, and CLICK “Submit”.

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4-FLP, Exhibit 53						
(Use Agency Letterhead format with local return address.)						
BORROWERS LEAVING ACTIVE DUTY						
Dear						
<p>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 payments were deferred on your 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 your FLP loans and payments must resume. Your payments are deferred for a period of time equal to the time of your active duty. The period of time has, therefore, been added to the term of your FLP loans.</p> <p>The beginning date of the deferred and non-accrual status was _____. The ending date of the deferral and non-accrual status was _____. The time period for your active duty, therefore, was _____.</p> <p>Within the next 12 months, the following payments are due on your FLP loans:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 35%;">Loan Number</th> <th style="text-align: left; width: 35%;">Date Due</th> <th style="text-align: left; width: 30%;">Amount</th> </tr> </thead> <tbody> <tr> <td style="height: 40px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table> <p>Please do not hesitate to contact this office if any further information is required.</p>	Loan Number	Date Due	Amount			
Loan Number	Date Due	Amount				

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